MONTANA LEGISLATIVE HISTORY

Chapter 424 19 97

Bill H 323 S _____ Original bill & history ___C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s) 2-13	✓ C	Hearing Date(s) 3-17	✓ C
_____	___C	_____	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out _____	___C		

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

BILL NO. HB 323

INTRODUCED BY Wm. E. Boharski

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING MARRIAGE BETWEEN PERSONS OF THE SAME SEX; AND AMENDING SECTION 40-1-401, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-1-401, MCA, is amended to read:

"**40-1-401. Prohibited marriages.** (1) The following marriages are prohibited:

(a) a marriage entered into prior to the dissolution of an earlier marriage of one of the parties;

(b) a marriage between an ancestor and a descendant or between a brother and a sister, whether the relationship is by the half or the whole blood, or between first cousins;

(c) a marriage between an uncle and a niece or between an aunt and a nephew, whether the relationship is by the half or the whole blood;

(d) a marriage between persons of the same sex.

(2) Parties to a marriage prohibited under this section who cohabit after removal of the impediment are lawfully married as of the date of the removal of the impediment.

(3) Children born of a prohibited marriage are legitimate."

-END-

HB 322 INTRODUCED BY MCCULLOCH, ET AL. *LC1175 DRAFTER: CAMPBELL*

PROVIDE FOR AN ELECTION ON THE QUESTION OF ENLARGING A TRANSPORTATION DISTRICT

1/22	INTRODUCED		
1/22	FIRST READING		
1/22	REFERRED TO LOCAL GOVERNMENT		
1/22	FISCAL NOTE REQUESTED		
1/24	FISCAL NOTE RECEIVED		
1/30	FISCAL NOTE PRINTED		
2/03	FISCAL NOTE RECEIVED		
2/04	HEARING		
2/06	FISCAL NOTE PRINTED		
2/07	COMMITTEE REPORT—BILL PASSED		
2/08	2ND READING PASSED	81	17
2/10	3RD READING PASSED	80	20
	TRANSMITTED TO SENATE		
2/11	FIRST READING		
2/11	REFERRED TO LOCAL GOVERNMENT		
3/13	HEARING		
3/18	COMMITTEE REPORT—BILL CONCURRED		
3/21	2ND READING CONCURRED	26	23
3/21	SEGREGATED FROM COMMITTEE OF WHOLE REPORT	47	1
3/24	2ND READING CONCURRED	35	15
3/25	3RD READING CONCURRED	38	11
	RETURNED TO HOUSE		
3/26	SIGNED BY SPEAKER		
3/27	SIGNED BY PRESIDENT		
3/28	TRANSMITTED TO GOVERNOR		
4/01	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 177		
	EFFECTIVE DATE: 10/01/97		

HB 323 INTRODUCED BY BOHARSKI, ET AL. *LC0337 DRAFTER: MACMASTER*

PROHIBIT MARRIAGE BETWEEN PERSONS OF THE SAME SEX

1/22	INTRODUCED		
1/22	FIRST READING		
1/22	REFERRED TO JUDICIARY		
2/13	HEARING		
2/19	COMMITTEE REPORT—BILL PASSED		
2/22	2ND READING PASSED	79	8
2/26	3RD READING PASSED	83	16
	TRANSMITTED TO SENATE		
3/03	FIRST READING		
3/03	REFERRED TO JUDICIARY		
3/17	HEARING		
3/19	COMMITTEE REPORT—BILL CONCURRED		
3/22	2ND READING CONCURRED AS AMENDED	42	7
3/24	3RD READING CONCURRED	45	5
	RETURNED TO HOUSE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS CONCURRED	59	40
4/11	3RD READING CONCURRED AS AMENDED	73	23
4/20	SIGNED BY SPEAKER		
4/24	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		
4/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 424		
	EFFECTIVE DATE: 10/01/97		

HOUSE JUDICIARY

- BILL NO -	REFERRED	HEARING	OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE	REREFERRED	DATE READ
HB0323	BOHARSKI, WILLIAM	PROHIBIT SAME-SEX MARRIAGES			
	1/22	2/13	DO PASS 02/19 VOTE: 15-5		2/19
HB0325	BRAINARD, MATT	AMEND CONST. TO MANDATE GRAND JURY IF PEOPLE PETITION FOR ONE			
	1/23	2/07	DO PASS 02/13 VOTE: 10-3		2/14
HB0337	BOHLINGER, JOHN	IMMUNITY FOR DENTISTS WHO PROVIDE CHARITABLE SERVICES			
	1/23	2/06	PASS AS AMENDED 02/12 VOTE: 19-0		2/13
HB0339	CAREY, BILL	CHANGE PENALTY FOR ONE UNDER 21 WHO FAILS DUI TEST			
	1/23	2/04	PASS AS AMENDED 02/04 VOTE: 15-0		2/05
HB0342	BARNHART, BEVERLY	ELIMINATE $10 MAXIMUM LIMIT FOR ON-CAMPUS VEHICLE AND PARKING VIOLATIONS			
	1/23	2/05	DO PASS 02/05 VOTE: 18-2		2/06
HB0343	GRIMES, DUANE	REVISE DOMESTIC VIOLENCE LAWS			
	1/23	1/31	PASS AS AMENDED 02/06 VOTE: 16-2		2/07
HB0346	TROPILA, JOE	GENERALLY REVISING LAWS RELATING TO MANDATORY MOTOR VEHICLE INSURANCE			
	1/24	2/05	TABLED ON 02/12 VOTE: 19-0		
HB0352	SLITER, PAUL	IMMUNIZE OWNER OF STOLEN PROPERTY FROM LIABLE LATER OCCURRING			
	1/25	1/30	PASS AS AMENDED 02/12 VOTE: 11-7		2/13
HB0365	MCGEE, DANIEL	CREATE OFFENSE OF CAUSING PARTIAL-BIRTH ABORTIONS			
	1/27	2/12	DO PASS 02/18 VOTE: 12-8		2/18
HB0389	SIMON, BRUCE	STRENGTHEN THE REQUIREMENTS FOR AN EMERGENCY STATE AGENCY RULE			
	1/29	2/11	TABLED ON 02/11 VOTE: 16-4		
HB0396	GRIMES, DUANE	PLACE PODIATRY IN MEDICAL LEGAL PANEL ACT			
	1/30	2/12	DO PASS 02/12 VOTE: 16-0		2/13
HB0401	BARNETT, JOE	REVISE LAWS GOVERNING BAIL			
	1/30	2/11	PASS AS AMENDED 02/11 VOTE: 20-0		2/12

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on February 13, 1997, at 8:00 AM, in Room 312-2.

ROLL CALL

Members Present:

Rep. Bob Clark, Chairman (R)
Rep. Daniel W. McGee, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell W. Anderson (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Duane Grimes (R)
Rep. H.S. "Sonny" Hanson (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Brad Molnar (R)
Rep. Gerald Pease (D)
Rep. Diane Sands (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)

Staff Present: John MacMaster, Legislative Services Division
Joanne Gunderson, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted:	HB 270, HB 323, HB 432 POSTED 2/5/97
Executive Action:	HB 432 TABLED
	HB 325 DO PASS
	HB 415 ACTION POSTPONED

HEARING ON HB 270

Opening Statement by Sponsor: REP. "BOB" REAM EXHIBIT 1
{Tape: 1; Side: A; Approx. Time Count: 4.4; Comments: This set of minutes was recorded on 90-minute tapes.}

Questions From Committee Members and Responses:
{Tape: 1; Side: B; Approx. Time Count: 32.0-Tape 2; Side A; 30.7}

Closing by Sponsor: REP. REAM
{Tape: 2; Side: A; Approx. Time Count: 30.8 - end of side A}

HEARING ON HB 323

Opening Statement by Sponsor: REP. BILL BOHARSKI
{Tape: 2; Side: B; Approx. Time Count: 0.1}

Proponents' Testimony:

ARLETTE RANDASH, Eagle Forum
{Tape: 2; Side: B; Approx. Time Count: 10.6}

STEVE WHITE
{Tape: 2; Side: B; Approx. Time Count: 19.5}

LAURIE KOUTNIK, Montana Christian Coalition — EXHIBIT 14
{Tape: 2; Side: B; Approx. Time Count: 23.5}

LINDA FRIEND
{Tape: 2; Side: B; Approx. Time Count: 30.4}

SHARON HOFF, Montana Catholic Conference
{Tape: 2; Side: B; Approx. Time Count: 30.7}

Opponents' Testimony:

SANDRA HALE, PRIDE — EXHIBIT 15
{Tape: 2; Side: B; Approx. Time Count: 31.6}

DR. JEFF FEATHERGILL, Attorney/PRIDE — EXHIBIT 16
{Tape: 2; Side: B; Approx. Time Count: 34.3}

SANDRA BOGGS
{Tape: 2; Side: B; Approx. Time Count: 39.0}

ROBIN CHILDERS and DENISE M. CHUMRAU — EXHIBIT 17
{Tape: 3; Side: A; Approx. Time Count: 1.3}

CHUCK WALTER — EXHIBIT 18
{Tape: 3; Side: A; Approx. Time Count: 4.5}

LANCE KALDER and BRUCE CHRISTOPHERSON — EXHIBIT 19
{Tape: 3; Side: A; Approx. Time Count: 6.5}

SHIRLEY WIDEMAN, P-FLAG — EXHIBIT 20 and 20A
{Tape: 3; Side: A; Approx. Time Count: 9.3}

KATHLENE FLECKENSTEIN — EXHIBIT 21
{Tape: 3; Side: A; Approx. Time Count: 10.5}

JOYCE GALSTER, P-FLAG EXHIBIT 22
{Tape: 3; Side: A; Approx. Time Count: 14.3}

LINDA GRYCZAN EXHIBIT 23
{Tape: 3; Side: A; Approx. Time Count: 16.8; Comments: Read testimony for Rev. Orendorff, did not testify on own behalf.}

DR. STARSHINE EXHIBIT 24
{Tape: 3; Side: A; Approx. Time Count: 22.1}

DONAY HANSON, Montana Universalist Association
{Tape: 3; Side: A; Approx. Time Count: 23.7}

KATE CHOLEWA, Montana Women's Lobby
{Tape: 3; Side: A; Approx. Time Count: 24.7}

CARL DONOVON, Black Eagle
{Tape: 3; Side: A; Approx. Time Count: 25.0}

CHRISTINE KAUFMANN, Human Rights Network EXHIBIT 25
{Tape: 3; Side: A; Approx. Time Count: 26.2}

CORKIE SMITH
{Tape: 3; Side: A; Approx. Time Count: 28.2}

CONNIE YOUNKIN EXHIBIT 26
{Tape: 3; Side: A; Approx. Time Count: 29.8; Comments: Read letter from F. David Herrera.}

SCOTT CRICHTON, ACLU
{Tape: 3; Side: A; Approx. Time Count: 30.1}

PROPONENT:

KATHY ROCCHIO, Boulder
{Tape: 3; Side: A; Approx. Time Count: 32.5; Comments: Opponents' time was expired, additional time was used for proponents.}

Questions From Committee Members and Responses:
{Tape: 3; Side: A; Approx. Time Count: 33.0-Tape 3; Side B; 17.9}

Closing by Sponsor: REP. BOHARSKI
{Tape: 3; Side: B; Approx. Time Count: 18.0}

HEARING ON HB 432

Opening Statement by Sponsor: REP. DEB KOTTEL
{Tape: 3; Side: B; Approx. Time Count: 22.3; Comments: Sponsor asked that the bill be tabled.}

EXECUTIVE ACTION ON HB 432

Motion/Vote: **REP. MC GEE moved HB 432 be tabled.** The motion carried by unanimous voice vote.

EXECUTIVE ACTION ON HB 325

Motion/Vote: **REP. KOTTEL moved HB 325 be reconsidered.** The motion carried 12 - 1.
{Tape: 3; Side: B; Approx. Time Count: 30.6; Comments: This action was taken since the amendments passed previously were in error, John MacMaster explained the reason for the need for change.}

Motion/Vote: **REP. "SONNY" HANSON moved HB 325 DO PASS.**

Motion/Vote: **REP. HANSON moved to strike the previous committee amendment of 2/12/97.** The motion carried 13-0.

Motion/Vote: **REP. HANSON moved HB 325 DO PASS amended to its original form.** The motion carried 10-3, REPS. ELLINGSON, HURDLE and WYATT voting no.
{Tape: 3; Side: B; Approx. Time Count: 32.0}

{Tape: 3; Side: B; Approx. Time Count: 32.1; Comments: REP. HANSON made a point of personal privilege.}

EXECUTIVE ACTION ON HB 415

Motion: **REP. CURTISS moved to reconsider HB 415.**

Discussion:
{Tape: 3; Side: B; Approx. Time Count: 33.0; Comments: REP. CURTISS withdrew her motion and it was decided to delay action to replace HB 415 with a committee resolution.} **EXHIBIT 27**

Motion/Vote: **REP. HANSON moved to adjourn.** The motion carried by unanimous voice vote.

EXHIBIT 14
DATE 2/13/97
HB 323

Same-Sex 'Marriage'

"For the gay and lesbian community, the issue of same-sex marriage is larger than simply the desire to marry legally...

"...It's the final tool with which to dismantle all sodomy statutes, get education about homosexuality and AIDS into public schools, and, in short, usher in a sea change in how society views and treats us. Our gay leaders must acknowledge that gay marriage is just as radical and transformative as the religious right contends it is."

—Michaelangelo Signorile in the May 1996 issue of Out magazine

EXHIBIT 15
DATE 2/13/97
HB 323

PRIDE!
P.O. Box 775 • Helena, MT 59624 • (406) 442-9322
e-mail pride123 @ aol.com

TO: Chairman Clark & Members of the House Judiciary Committee

RE: Opposition to HB 323 - Prohibiting Same-Sex Marriages

DATE: February 13, 1997

I am Sandra Hale, Executive Director of PRIDE! - Montana's statewide organization established to secure the constitutional rights of privacy, equal protection under the law and human dignity for lesbian, bisexuals, and gay men living in our state. PRIDE! stands in strong opposition to HB 323. Once again, this is a civil rights issue at stake.

Why would lesbian & gay couples need or want to get married?

Most same-gender couples already take on many of the same responsibilities as married couples, but have none of the legal protections or benefits that accompany civil marriage. In fact, despite taking responsibility for their partner's well-being, both economically and emotionally, same-gender couples are legally treated as nothing more than room mates! For example, one partner is often denied visitation and involvement when the other is in the hospital. Other benefits same-sex couples lose: "family" health coverage, auto and home owners insurance, taxation and inheritance rights, paid leave from employment for the death of a partner or a member of the partner's family, or legally prescribed channels for divorce.

The gay and lesbian drive to full legal marriage is not about benefits alone, however. Marriage represents a full range of social and cultural values that go far beyond benefits. Marriage is the most intimate, wide-ranging contract any adult can possibly enter. Marriage is steeped in respectability, tradition, love, commitment, romance, acceptance and social support. And guess what, lesbians, gay men, and bisexuals deserve to be part of that American dream.

In closing, marriage is an important personal choice and a basic human right. The decision to get married should belong to the couple in love; ***the state and federal governments should not be dictating who can marry.***

Talking About the Freedom to Marry

KEY POINTS

- Today same-gender couples are not allowed to legally marry in any state -- no matter how long they have been together, no matter how committed their relationship, and no matter how much their families need the protections, benefits, and responsibilities that come with civil marriage.

- Marriage is an important personal choice and a basic human right. The decision to get married should belong to the couple in love, not the state.

- This is not the first instance of government interference with people's freedom to marry. Less than thirty years ago interracial couples were prohibited from legally marrying. Today, very similar discriminatory arguments are being used to prohibit same-gender couples from marrying.

- Legally, religious and civil marriage are two separate institutions. Though many faiths do perform same-gender marriage ceremonies now, they have no legal recognition as civil marriages. The state should not dictate which marriages any religion performs or recognizes, just as religions should not dictate who gets a civil marriage license from the state.

Donna Lee/LLDEF

Two of the six plaintiffs in *Baehr v. Lewin*, Genora Dancel and Ninia Baehr.

QUESTIONS AND ANSWERS

Q Why do we need "gay marriage"?

A We don't. We need marriage. The term "gay marriage" implies that same-gender couples are asking for special rights or privileges that married couples do not have. What we need is the equal right to marry the person we love and care for, just as heterosexual Americans can.

Q Why do gay/lesbian couples need or want to get married?

A Most same-gender couples already take on many of the same responsibilities as married couples, but have none of the legal protections or benefits that accompany civil marriage. In fact, despite taking responsibility for their partner's well-being, both economically and emotionally, same-gender couples are legally treated as nothing more than roommates! For example, one partner is often denied visitation and involvement when the other is in the hospital. Same-gender couples are refused "family" health coverage, taxation, and inheritance rights, and are denied protection in case the relationship ends -- sometimes even resulting in a partner's children being taken away. In addition, same-gender couples are denied the social and emotional security marriage provides for so many people in our society.

Q Isn't marriage traditionally defined as a union between a man and a woman?

A Traditionally, yes. However, marriage has also been "traditionally" defined as a union between two people of the same religion or the same race, and one in which wives were the property of their husbands. Those "traditional" elements of marriage changed to reflect the equality of individuals. Today we recognize the choice of a marriage partner belongs to each person, not to the state.

Q Isn't marriage really about procreation?

A No. Many people marry who cannot or choose not to have children. And many gay men and lesbians do have children, but are denied the right to raise those children within a marital relationship. Marriage is best understood as a relationship of emotional and financial interdependence between two people in love who make a legal and public commitment to each other.

Q Do all lesbians and gay men want to marry?

A No. Lesbians and gay men are as diverse as non-gay people; some would choose not to marry even if they could. All couples, however, should have this choice. The government should not interfere in the decision of same-gender couples to exercise this basic human right, just like everyone else.

Q Is the gay community using this issue to support a broader agenda?

A The lesbian, gay, bisexual, and transgender communities have always been very open about our goal of ending discrimination and supporting equality for all. It's the Radical Right which is in fact using fear and misinformation regarding marriage to raise funds in support of its broader, extremist agenda, and to increase its influence on the government.

Q What about domestic partnership?

A In certain cities and companies there is limited recognition of relationships between unmarried partners, including same-gender couples. No domestic partnership plan, however, provides the same responsibilities, benefits, and protections that marriage does. Domestic partnership is no substitute for civil marriage.

Q Is this the right time to fight for same-gender marriage?

A Yes, in fact there has never been a better time. The Hawaii Supreme Court will soon rule on this issue, and legal experts agree that Hawaii will most likely be the first state to recognize civil marriage for same-gender couples, affecting gay and lesbian couples all across the country.

Q How does this affect couples outside Hawaii?

A Same-gender couples who travel to Hawaii to get married and return to their home state will expect to have their marriage recognized at home, just as others do. There are powerful legal and practical reasons why a lawful marriage in one state must be recognized by all others (this is, after all, one country, and if you're married, you're married). We can, however, expect the wealthy and well-organized Radical Right to challenge these lawful marriages state by state. We must prepare now for the challenges.

Join the Fight

HOW YOU CAN GET INVOLVED

The first thing you can do is encourage all organizations you are a member of to sign on to the Marriage Resolution. The list of endorsements is important to the battle in Hawaii and nationally, providing essential evidence of our growing coalition as we bring on more allies and continue this fight. And, asking for support is a critical step toward promoting discussion and education about our families and the freedom to marry.

Tana Io Ingraham/Island Lifestyle

Two of the six plaintiffs in *Baehr v. Lewin*, Joe Melillo and Patrick Lagon.

The second step you can take is to become a Lambda member and join our fight for justice. As a member, you will support more than the Marriage Project. You will assist Lambda as we provide leadership and vision in our efforts to combat discrimination against lesbians, gay men and people with HIV nationwide.

MEMBERSHIP

○ $40 Basic Member	○ $250 Advocate
○ $75 Household	○ $500-$1,499 Partners Circle*
○ $100 Sustainer	○ $1,500+ Liberty Circle*

Name _____

Address _____

City/State/Zip _____

Telephone _____

*Contributors of $500 or more become Major Donors and receive additional benefits. For more information, call our Development Director, Bill Peters, at 212-995-8585.

○ As a major donor, I prefer not to have my name listed in Lambda publications.

Please check where appropriate:

○ Enclosed please find my check made out to LLDEF.

○ Please make a ○ one-time ○ monthly ○ quarterly charge of $_____ *($25 minimum)* to my ○ Master Card ○ Visa ○ Amex

Signature _____

Credit Card # _____ Exp Date _____

All contributions to Lambda are tax-deductible.

Return this form to LLDEF, 666 Broadway, Suite 1200, New York, NY 10012-2317.

229-662

The Marriage Resolution

The following Resolution is a tool to help you generate community support, build a coalition, and promote discussion and public education on gay people's need for the freedom to marry.

Detach this form (or make copies!) and have any organization you belong to sign on to the Resolution, then get other groups to do the same.

Mail or fax the endorsed resolutions to Lambda.

THE MARRIAGE RESOLUTION

Because marriage is a basic human right and an individual personal choice,

RESOLVED, the State should not interfere with same-gender couples who choose to marry and share fully and equally in the rights, responsibilities, and commitment of civil marriage.

BE IT RESOLVED THAT

_____

(Organization Name)

ENDORSES THE MARRIAGE RESOLUTION.

Organization _____

Address _____

Phone _____ Fax _____

Contact Person _____

Please return the endorsed Resolution to:
Lambda Legal Defense and Education Fund
666 Broadway, Suite 1200, New York, NY 10012-2317
fax 212-995-2306

For more information about the Resolution and Lambda's Marriage Project, and for other resources regarding equal marriage rights for lesbians and gay men, please contact Lambda's National Headquarters at 212-995-8585.

The Freedom to Marry

On May 5, 1993, the Hawaii Supreme Court took a giant step toward allowing lesbians and gay men to marry. In *Baehr v. Lewin*, the Court held that the refusal to issue marriage licenses to same-sex couples is sex discrimination in violation of the state constitutional guarantee of equal protection. The Court sent the case back to the lower court to give the state a chance to defend its discrimination. The state can win only if it shows "compelling" reasons why only different-sex couples should be allowed to marry.

The couples are represented by co-counsel Honolulu attorney Dan Foley, through the Hawaii Equal Rights Marriage Project (HERMP), and Lambda's Marriage Project Director Evan Wolfson. The trial was held September 10-20, 1996, and a ruling is expected by December, with a final resolution following appeal by 1998.

In the nationwide battle for equal marriage rights, winning *Baehr v. Lewin* may be the easy part. Even now, opponents are fighting to keep the basic freedom to marry from gay Americans. Several states have already proposed measures refusing to recognize marriages performed in other states. This is only the beginning of what will probably be a formidable backlash against equal marriage rights. It is of the utmost importance that every community be prepared for these battles.

Lambda's Marriage Project is actively recruiting a broad coalition of organizations and individuals to join in this historic fight. The Marriage Project also coordinates the work of other organizations and serves as a clearinghouse for research, information, and contacts as we prepare to defend the right to marry. We all have a critical role to play in preparing the groundwork now for this landmark civil rights battle.

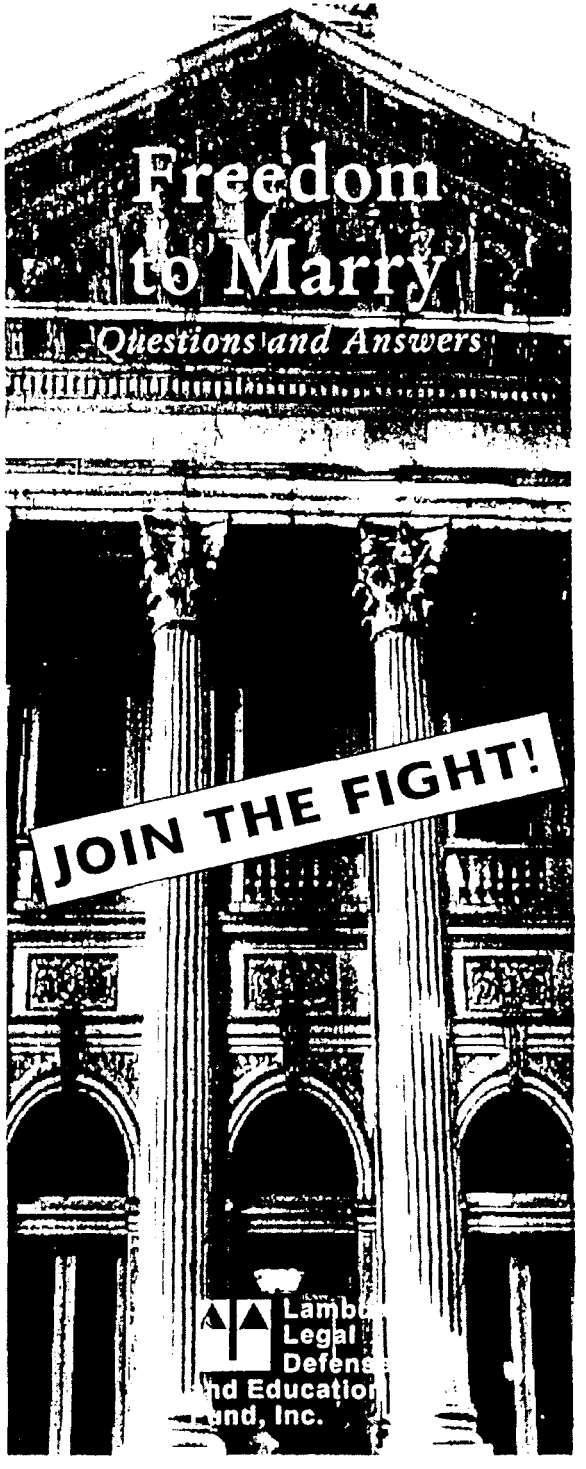
Join us today by getting the word out and getting involved

Lambda Legal Defense and Education Fund, Inc.

National Headquarters
666 Broadway, Suite 1200
New York, NY 10012-2317
212-995-8585
fax 212-995-2306

Western Regional Office
6030 Wilshire Blvd, Suite 200
Los Angeles, CA 90036-3617
213-937-2728
fax 213-937-0601

Midwest Regional Office
17 East Monroe, Suite 212
Chicago, IL 60603-5605
312-759-8110
fax 312-641-1921



HB 323

EXHIBIT 16
DATE 2/13/97
HB 270

Mr. Chairman, Representative Boharski, and esteemed committee members:

My name is Dr. Jeff Feathergill.

I strongly oppose this legislation which denies basic civil rights to Montana's gay and lesbian citizens.

In my doctoral studies in clinical psychology, I specialized in the psychological issues of gay men and lesbians. It became clear to me, from a bio-psycho-social model that sexual orientation is not a choice. According to the American Psychological Association, a homosexual orientation is distinguished by an enduring emotional, romatic, sexual, and affectionate attraction to individuals of the same gender.

Also, according to the American Psychological Association, sexual orientation is not regarded as a choice that can be changed. There is strong scientific research to back this up. Persons with a same-sex orientation, suffer the harm of rejection and alienation when denied the right to have their relationships with their partners recognized and accepted.

Further, neither the American Psychological Association, nor the American Psychiatric Association, consider homosexual orientation to be a mental illness. Both Associations urge all mental health professionals to help dispel the stigma of mental illness that some people still associate with homosexual orientation.

You know, even "the good doctor" Sigmund Freud was unwilling to classify homosexuality as a mental illness. Rather, he observed that it was the oppression and lack of acceptance by an intolerant society that caused many of the mental health problems of his homosexual clients.

I urge you to consider that this legislation will further the cause of oppression and intolerance, negatively impact the health and well being of many gay men and lesbians, and restrict them from achieving their civil right to the pursuit of happiness.

I would also like to address the issue of whether lesbians and gay men can be good parents. Many gay men and lesbians choose to have children, and if allowed the right to marriage, more may choose to do so. And this is a good thing, because gay men and lesbians can be excellent parents. Study after study which compared groups of children raised by homosexual parents have found no developmental differences between the two groups of children in their intelligence, psychological adjustment, social adjustment, popularity with friends, development of social sex role identity or development of sexual orientation.

Another stereotype about homosexuality is the mistaken belief that gay men have more of a tendency than heterosexul men to sexually molest children. There is **no evidence** indicating that homosexuals are more likely than heterosexuals to molest children.

Finally, as a gay man, I urge the committee to reject this legislation, in the hope that I may still have chance, (even at 41 and not getting any younger), of partnering in marriage / and receiving all of the civil and societal benefits and priveleges of that institution.

Thank-you,

Jeffrey T. Feathergill, Psy.D.
415 N. Beattie
Helena, MT 59601

EXHIBIT 17
DATE 2/13/97
HB 323

Robin L. Childers & Denise M. Chumrau
Testimony Against H.B. 323
Proposed Ban on Same Gender Marriage
House Judiciary Committee
2/13/97

Most of the prohibitions in state law against marriage prevent situations in which power is likely to be abused and the rights of one individual, usually a minor, trampled upon. These prohibitions are certainly in keeping with the State's role as an entity that protects individuals' rights and punishes those who infringe upon the rights of others.

In this regard, House Bill 323 is precedent-setting. It proposes to prohibit marriage between consenting, unrelated adults based solely upon the genders of those who consent to be married. H.B. 323 further extends the State's role in the lives of individual citizens by denying the rights, privileges and obligations of marriage to citizens whose participation neither infringes on the rights of others, nor compromises a modern definition of marriage as the formal union of two adults of mutual affection.

Sustaining any relationship in a shared household is difficult, time-consuming work, in any era and circumstances. A couple that survives the average lifetime of crises - illnesses, job loss, family deaths, financial woes, *home improvement* - deserves our respect and holds up a standard toward which any one of us may choose to strive.

There is not anyone in this room who could go wrong by following a marriage standard established by Denise and I. We have cohabited for nearly thirteen years, acquiring all the trappings of a legally married couple - another description for mutual debt. Together we own a home, two cars, two dogs and a whole bunch of stuff. What most of us expect from marriage - shared household responsibilities, common goals, fidelity, love, support and mutual respect - Denise and I have in abundance.

It is quite simply unacceptable for the State of Montana, or any state, to deny its citizens rights and privileges because it disapproves of how they live. Such action by any governing body in the United States is antithetical to the intent of our constitution and Bill of Rights. I urge you not to pass H.B. 323.

EXHIBIT 18
DATE 2/15/97
HB 323

HB-323 - PROHIBITING SAME-SEX MARRIAGE

Mr. Chairman and Members of the Committee,

I am Chuck Walter. I was born and raised on a farm just outside Billings. The same farm my dad was born and raised on. My wife, Georgia, was raised on a farm in Shepherd. We both came from proud, hard working Montana families. Our marriage was blest with two sons. Both boys were educated in Billings and were honor roll students. Both boys graduated from Montana State University. We are intensely proud of both of these fine young men. Brandon was married this last summer to a wonderful Miles City girl. This was a magnificent event for our family to experience and is something every parent looks forward to in their child's life.

Our oldest son, Jason, is just as honest, hard working and as fine a citizen as his brother, but he may never be able to experience the joy of marriage. Not because he is less deserving but because he is gay. The bill you are considering today may deny him of a right we all take for granted, just as many other civil and human rights are denied gays, lesbians and bisexuals. This particular group of people in our society are denied basic human rights we ALL enjoy and deserve. Many justify this by saying homosexuals want 'special rights'. The rights we all relish as citizens of this state and this great country are indeed 'special' but should not be saved for some and denied to others.

To allow this to happen is to allow discrimination not only to exist but to legislate it. I ask you not to Prohibit Marriage to any couple based on love, understanding and respect. As you represent the people of your districts, please do so with out denying ANY of them, ANY of the rights we ALL hold so dear.

EXHIBIT 19
DATE 2/13/97
HB 323

MEMO

TO: House Judiciary Committee

ON: House Bill 323

DATE: February 12, 1997

Dear House Judiciary Committee Member:

Our names are Lance Kaldor and Bruce Christopherson and we would like to express our opposition of House Bill 323, prohibiting homosexuals and lesbians from marriage.

We are two Montana citizens in our thirties. We hold respectable jobs in the Great Falls community. We do not condone child molestation, rape or any other unmoralistic crime. We have values such as fidelity, integrity, respect and trust to name a few.

On September 2, 1995 we stood together before our parents, families, co-workers, bosses, and peers, promising to love, honor and cherish each other for all eternity. In the hours that followed we rejoiced with all the people there. All one hundred and ten total, gays, lesbians, and heterosexual alike. Sound almost like yours or your child's wedding.

Since then we cook dinner, argue over the remote control and discuss what to do about the check books. We paint the house, landscape, and change the oil in our car on the weekends. All sounds very familiar doesn't it.

So you can see why we oppose House Bill 323. It's unfair, it keeps gays and lesbians segregated just as the government has done to the immigrants and African-Americans through the years. It infringes on our constitutional rights to life, liberty, and the pursuit of happiness, yes, our happiness. This bill does not keep up with the needs of society today. Traditional family values have changed, because if those values were the same as two centuries ago, the women of this committee would be at home with the children making dinner for their man and indeed would not have the right to vote.

So we ask that you vote against House Bill 232, so that the evolution of America continues. If you choose to pass this bill, do not be glad. We are not going to go away, we will still be here moving among you, collecting double credit limits. A $1,300.00 tax deduction over the married heterosexuals, taking money from the government because they couldn't accept us. Someday we will be recognized. The history of the African-American teaches us that. Can't history start now?

Sincerely,

Lance Kaldor

Bruce Christopherson

EXHIBIT 20
DATE 2/13/97
HB 323

House Judiciary Committee
Montana Legislature
Capitol Station, Helena, MT 59620

Dear Representative:

I am writing to share with you and your committee my support for HB270 for inclusion of sexual orientation in the Montana Human Rights Bill.

I am also writing in opposition to HB 323 prohibiting same sex marriages.

Though I am not a parent of a gay, lesbian or bi-sexual, I am an active member of PFLAG, Parents, Families and Friends of Lesbians and Gays. As a friend of many lesbians and gays and as a friend to many parents of lesbians and gays I must speak out in their behalf. The pain and anguish to these persons caused by discrimination, fear for personal safety and the general absence of their basic human rights in Montana must come to an end.

When we speak about Human Rights we must not discriminate against a person's sexual orientation.

When we talk about family values we may have different definitions of family but I think we can all agree that "love makes a family". When we support persons, even those of the same sex, who choose to make a personal and public commitment to each other we strengthen family and community. Discrimination and denial of basic human rights destroys family and community.

I urge you to consider seriously the matter of HUMAN RIGHTS IN MONTANA.

Sincerely,

Shirley Wideman
112 14th Ave. South
Great Falls, MT. 59405

EXHIBIT 204
DATE 2/13/97
HB 323

MEMO

TO: House Judiciary Committee

ON: House Bill 323

DATE: February 12, 1997

To House Judiciary Committee Members:

What difference does it make to the legislature or what differences does it make to the government who marries who or what gender they are?

I am very proud of my son and his spouse. They work harder at their marriage than any one I've ever seen. They may be homosexual, but that does not diminish the relationship one bit.

There is not a doubt in my mind that 50 years from now they will still be together, and deserve the right to have it be recognized by the government.

Peace,

Margie A. Kaldor

Margie Kaldor

EXHIBIT 21
DATE 2/13/97
HB 323

February 13, 1997
Judiciary Committee Hearing
HB 323 - Boharski - Banning Same Sex Marriages

Mr. Chairman, Members of the Committee:

I am Kathlene Fleckenstein from Corvallis, MT. I am here speaking on behalf of the Unitarian Universalist Association of Congregations. As you may know, Unitarians and Universalists have been at the forefront of social change for centuries. We number among our historic members free thinkers such as William Ellery Channing, Ralph Waldo Emerson, Susan B. Anthony and Thomas Jefferson. Perhaps lesser known is Michael Servetus who was burned at the stake in 1553 for the crime of being a heretic.

Although we do not have a creed or belief system common to all of our members, we do have a set of guiding Principles that help us form a moral code, much like the Ten Commandments. One of the Principles is the belief in the inherent worth and dignity of every human being. This Principle is at the core of our beliefs, the Principle that has driven generations of Unitarians and Universalists to social action. It is the Principle that has demanded of me that I stand here and speak to you today. Every human being has worth and dignity. Regardless of their beliefs. Regardless of whom they love.

In writing the Declaration of Independence, Unitarian Thomas Jefferson said, "... We hold these truths to be self evident: that all men are created equal; that they are endowed by their creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness...." It is the stand of Unitarian Universalists that banning any person's right to marry based on sexual orientation is unconstitutional and flies in the face of the values upon which this country was founded: namely Freedom and Liberty.

This ring I wear on my hand is recognized by the government because I happened to have fallen in love with a man. But if I had fallen in love with a woman, the bill before you would prohibit the government from recognizing my right to wear it. This is arbitrary and clearly discriminatory.

Unitarian Universalists do not simply tolerate homosexuals in our congregations. We accept who they are for all of their attributes, not for one aspect of their lives. We welcome them to us. We ordain homosexuals into our clergy. We perform, recognize and celebrate their unions. They are us.

Today we will undoubtedly hear much about traditional values. However, it was once a traditional value to publicly torture and burn heretics. It was once a traditional value to deny women the right to vote. It was once a traditional value to buy and sell human beings on the sole basis of their skin color. And now, for the sake of traditional values, we are debating whether to allow homosexuals to legally marry. Unitarian Universalists fail to understand how society is wronged when two adults fall in love. There is no compelling legal reason for government to strip rights away from a small segment of our population. We agree with the Dalai Lama when he said, "There are no acts of love between adults that one can or should condemn."

When so-called "traditional values" conflict with basic human decency; when they conflict with constitutional rights; the only Moral thing to do is the decent thing. Please vote "no" on HB323.

Thank you for your kind attention.

EXHIBIT 22
DATE 2/13/97
HB 323

Mr. Chairman and Members of the House Judiciary Committee:

My name is Joyce Galster and I am the Butte Coordinator for P-FLAG (Parents, Families/Friends of Lesbians and Gays) and the very proud mother of a gay son.

Regarding HB323, since marriage in Montana is already defined as a union between a man and a woman, I believe the point of this Bill is moot. Someone needs to amend that definition to be "between 2 persons who wish to publicly declare their fidelity and commitment to each other.

Same gender marriage is strictly a civil right and should not be confused with marriage in a religious sense. No religion or church will be OBLIGATED to perform same gender marriages. Domestic Partnerships confer only very limited rights. The multitude of sought-after rights under federal and state laws, as well as those of private organizations such as employers and unions are available only to couples who are "married." Therefore "marriage" is the only means to obtain all of these legal rights. For instance, the right to make critical decisions and arrangements on behalf of ill or deceased partners.

My son lost his partner several years ago. He has never taken another partner. They were together for 9 years. I know many other same sex couples who have been together for even up to 25 years but unable to enjoy any of the legal perks for their committed relationships.

One last word - a common stereotype of gays is that they are all very promiscuous - but when they ask for recognition of committed relationships, they are denied.

Please do not pass this Bill.

Sincerely, Joyce M Galster

Joyce M. Galster
1016 California St.
Butte, Mt. 59701-4720

EXHIBIT 22
DATE 2/13/97
HB 323

Rev. David Orendorff
Helena, Montana
of St. Paul's United Methodist Church

Testimony before the House Judiciary Committee
In opposition to HB 323 Prohibiting Same-Sex Marriage
Introduced by Rep. Boharski (R-Kalispell)

A Texas columnist tells the story of two little boys whose mother was tired of their noisy ways in the house and sent them out to the hen house to check the chickens for chicken snakes. The boys checked the bottom roost and it was clear. As they checked the upper roost, just about face high, they found themselves nose to nose with a chicken snake. In sudden panic they nearly destroyed the chicken house door in their flight to escape. Crashing into the house they told their mother of the snake.

"Now boys," she said, "You know a chicken snake won't hurt you."

"Yes Mam, " a son replied, "But some things will scare you so bad that you hurt yourself."

Homosexuality seems to be for us one of those things that scares us so bad that we hurt ourselves.

The United Methodist Church has a very long history of being firmly and publicly supportive of full rights for homosexual persons. The Book of Discipline of the United Methodist Church, paragraph 71G, states:

> Certain basic human rights and civil liberties are due all persons. We are committed to support those rights and liberties for homosexual persons. We see a clear issue of simple justice in protecting their rightful claims where they have: shared material resources, pensions, guardian relationships, mutual powers of attorney, and other such lawful claims typically attendant to contractual relationships which involve shared contributions, responsibilities, and liabilities, and equal protection before the law. Moreover, we support efforts to stop violence and other forms of coercion against gays and lesbians.

For many years St. Paul's has been active and vocal in its support of Gay and Lesbian rights. We formed one of the earliest chapters of Parents and Friends of Lesbians and Gays (PFLAG) in Montana. We have had open classes to discuss among ourselves and with self-identified Lesbians and Gays the question of homosexuality. We have had a Lesbian woman and a Gay man assist in worship. We have several Lesbians and Gays who are members of St. Paul's or who are regular attenders and good friends of St. Paul's. Many of us have testified at legislative hearings and attended public rallies. Never have we tried to hide or minimize our commitment to be a welcoming place for all people. As our mission statement clearly states, "We welcome all people to live and grow in God's love." And to us "all' means all.

I could offer testimony on the Biblical view of same-sex relationships. I have learned both Hebrew and Greek, focused on

Biblical Interpretation during four years of Seminary, and studied the New Testament at a PhD level for two years. My conclusions are that the Bible offers no guidance in this area. If there are members of the committee who at some other time would like to discuss this with me, I gladly make myself available.

We are also called to use the minds, the ability to reason, God gave us. If by reason we mean a studied or scientific approach to homosexuality then we will find no more help in reason than we have found in scripture. Various psychological and physiological studies have produced contradictory results. Recent research into the chemistry of the brain strongly suggests that the brains of heterosexuals are somehow different than the brains of homosexuals, but the results are not yet absolutely conclusive.

Without the clear and unambiguous guidance of scripture, or reason, we are left with the guidance of our experience. This makes our decisions about homosexuality almost purely personal to our particular experience. Those of us who have friends and family who are homosexual will undoubtably have a different experience than those whose experience is different. Even within families our experiences will differ. Those of us who see the homosexual as our neighbor will strive to love our neighbor as we love ourselves.

My experience is that Gay and Lesbians are people, with all the gifts, graces and failures of being human. My primary concern is to speak for the Gay and Lesbian couples of St. Paul's who have long monogamous relationships, some of whom I have known for a decade. They are persons of Christian character who practice fidelity and compassion in their relationships. They, of course, face the same challenges heterosexual marriages face. They argue about money, children, house cleaning, etc. Some couples experience the grief of divorce. One of our couples lost a child in a tragic car accident last year. Most of our couples are committed to each other, to their families and to making life together work. Except that the relationships are same sex, they are the same as other marriages. I believe that God recognizes their love, their commitment, their efforts and their marriages. I find it cruel that the state will not.

Thank you for your time. I will be glad to respond to questions.

EXHIBIT 24
DATE 2/13/97
HB 323

I am Dr. Starshine, a retired teacher, mother of four, grandmother of 17. I am against HB 323 because it singles out a group of people to place as second-class citizens. By denying the basic right of marriage HB 323 would make gays and lesbians second-class citizens.

Quakers have struggled with same-gender marriage for years. When we finally realized that the essence of marriage is **committment** not plumbing, then we began holding religious marriages for same-gender couples--not Holy Unions or some such euphemistic term, but marriages.

A few years ago, gays and lesbians were called promiscuous; today people want to forbid them to have legally committed relationships. The truth is that gays and lesbians are just like you in every respect except that they love people of their own gender. They vote, hold jobs, pay taxes and mow their lawns. Believe it or not, gay and lesbian couples are committed and want to have that committment recognized legally with all the rights and responsibilities thereof. Please vote against HB 323.

Dr. Starshine
3801B 6th Ave. N.
Great Falls 59405
12 February 1997

EXHIBIT 25
DATE 2/13/97
HB 323

TESTIMONY AGAINST HB 323
MONTANA HUMAN RIGHTS NETWORK
Submitted by Christine Kaufmann

MHRN is private non-profit advocacy organization which helps communities respond to bigotry, intolerance and discrimination in their communities. We work with 12 local groups and over 1300 members across Montana.

We stand opposed to HB 323 which prohibits marriages between persons of the same sex. The bill is unnecessary. Current law does not allow such marriages by definition. 40-1-103 MCA defines marriage-- "Marriage is a personal relationship between a man and a woman arising out of a civil contract ..." Why spend the time and resources passing a bill to prohibit something that is not even a possibility. What is it's purpose?

The gay and lesbian community has not come before you asking for a change in that definition that would allow their marriage. To tell you the truth, the Human Rights Network thinks there are a lot more important issues facing the gay and lesbian community, such as protection from discrimination (Ream's bill) or protection from violence.

So we didn't bring you this issue that you'd all rather not be talking about. But now that its out in the open, it probably won't go away until justice prevails.

This bill is brought to you by those who last session wanted to require lifetime registration of gay men and lesbians. Now, in this bill they want to prevent lifetime registration.

This bill is brought to you by those who decry what they see as promiscuous, unstable, unhealthy short-lived relationships between persons of the same sex. Now in this bill, they want to make sure lesbians and gay men never are allowed to participate in the institution designed to foster stable, healthy, monogamous, and long-term relationships.

This bill is brought to you by those who quite simply, find the idea of marriage between two men or two women offensive. They just don't like it. And that is not a good reason to make it law. Just a few decades ago, people found the idea of marriage between persons of different races morally offensive as well. Some people still do. It was only 30 years ago that the US Supreme court declared laws banning interracial marriage to be unconstitutional. Most of us, however, think the choice of a marriage partner belongs to consenting adults, not the government.

This bill is brought to you by those who oppose equal access to marriage on the basis of their personal religious beliefs. In an effort to impose their religious beliefs on the rest of us they are now seeking a law to prohibit marriage between persons of the same sex in the state of Montana. They argue that allowing equal access to marriage forces people to recognize marriages which are directly counter to their religious doctrine. But in their attempt to use the law to protect their sensibilities, they would restrict religious freedom for others in society.

Marriage is one of few instances in which the state delegates authority to the church. The state

recognizes a contractual civil union on the basis of a marriage performed by members of the clergy in accordance with church doctrine. This has traditionally been a permissive rather than prescriptive granting of state authority.

The state has not said that marriage ceremonies must be at least twenty minutes long, or the bride must receive a ring or that certain things must be said and agreed to in the course of the ceremony. Along the same lines, government has also refrained from proscribing a set of qualifications which the clergy member performing the ceremony must meet, they don't need a college degree, they don't need to be able to read and write or to recite scripture, they just need to be recognized by their church. Further, the state has studiously avoided stringent requirements on just what it takes to be a church or religion capable of performing a marriage. There is no proscribed doctrine or dogma which a group of people must show in order to be a church.

The only time the state prohibits specific religious practices is where there is a compelling state interest, such as public safety. Animal sacrifice has been found to be protected as a matter of religious freedom despite the fact that it clearly offends the sensibilities of the community as a whole.

The reason for this hands-off approach is a good one . . . . and a simple one. It is a matter of religious freedom. In order to protect people's religious freedom the state does not pass judgement on the internal workings of a church.

And here is the rub in the current debate about gay marriage. The proponents of a ban on gay marriage are passing judgement on the doctrine of some churches. Based on their judgement, they identify one church activity (marriage of same sex couples) as not legitimate, and in the tradition of religious bigotry, seek to codify their judgement of the religious practices of churches with which they disagree.

The simple fact is that there are churches which recognize gay marriage as a matter of doctrine. There are churches which seek to minister to this segment of the population. The proponents of the ban want to use state power to pick and choose which matters of doctrine are "acceptable" to the state and which are not. Absent a demonstrated threat to public health or safety they should not be allowed to do it.

As you have heard in previous testimony, denying marriage to some couples, is discriminatory. It presents some hardships for real people in your districts. There is room for compromise here. In addition to prohibiting marriage, you might consider offering a domestic partnership status for persons of the same sex. Many gay and lesbian activists don't like this idea, because it sets up a second class status. But I'd have some amendment language I'd be willing to share with anyone on the committee.

In closing, I urge you to vote against HB 323, but if you can't do that, to amend it to provide limited civil recognition.

FDH
& Associates
PO Box 1253
Billings, MT 59103-1253
(406) 255-7467
FAX (406) 255-7466

EXHIBIT 26
DATE 2/13/97
HB 323

February 12, 1997

House Judiciary Committee Members
Montana House of Representatives
Capitol Station
Helena, MT 59620

Re: HB 323 - Prohibiting Same-Sex Marriage

Dear Members of the House Judiciary Committee:

I am writing today to urge you to oppose House Bill 323 which would ban same sex marriages in Montana. Marriage is an important decision made between two individuals that love each other and wish to make a commitment to one another. Gay and lesbian couples deserve the right to make such decisions and have their commitments honored by the state of Montana.

I have been in a loving and deeply committed relationship for nearly 14 years with another man. I must admit that I have a hard time having to somehow justify a part of my life which I consider private and personal. This is not to say that I am ashamed of my relationship. Nothing could be further from the truth. It simply strikes me as odd as I'm sure it would you if you had to write a letter and justify or defend your relationship with your spouse before a legislative committee.

I know that many people would prefer that I kept my relationship simply that - private and personal. Unfortunately, when we choose to own joint property, go on vacation and make lodging arrangements, seek professional help for financial planning or make health care arrangements our relationship enters public domain. I decided long ago that I would not lie to other people so that they might feel more comfortable. Because if I decided to lie about something as important as my relationship, then it would be easier to lie about other important parts of my life. I don't think that's a healthy or Christian way to lead one's life.

It is on those occasions when my relationship becomes public that I realize how little protection I have should anything ever happen to one of us. Protections that many people take for granted, because such protections are guaranteed by marriage and by other basic civil rights. These same civil rights are denied to gays and lesbians - a denial that renders them second class citizens. For these reasons, I ask that you oppose HB 323. I have also included a guest editorial from the Billings Gazette on the issue of same sex marriage. Thank you for your time and consideration.

Sincerely,

F. David Herrera

F. David Herrera
Owner, FDH & Associates

Here is the text of the speech Iowa Rep. Ed Fallon gave on gay marriage in the Iowa House 2/20/96:

Ladies and gentlemen of the House, I have anguished over this bill, not because there is any doubt in my mind as to how I should vote, but because I believe strongly that what we are dealing with here is the defining civil rights issue of this decade. Historically, this issue may prove to be the most significant matter we deal with this year, and so I would respectfully ask the body's indulgence and attention during this debate.

My remarks are directed both toward those who sincerely believe that this bill is good and just and to those who know in their hearts and consciences that this bill is wrong, but in fear of public opinion and of how this issue will be used in campaigns next fall, they are inclined to vote in favor of its passage.

Back in the 1950s, many, many Americans were victimized by relentless, fear-driven red-baiting. There was a Bolshevik lurking in every bathroom, and you never knew but your neighbor or even your uncle might turn out to be a communist.

In the 1990s, red-baiting is out. But pink-baiting is in. Gay-bashing, generally thought of as a Friday night frloic for inebriated thugs, has its parallel expressions in voting booths, city council halls, and legislative chambers across this country. Today we are witnessing one of those expressions in the form of this bill. By singling out gay and lesbian marriages as a union unacceptable in the eyes of the law, we fuel the fires of ignorance, intolerance, and hatred.

And if anyone here thinks that the positions we embrace, the laws we enact do not affect the mood of the public, then you have a very low, and I believe, a very inaccurate view of the powerful influence we here in this body exert over the formation of public opinion. The message we're sending today is that it's OK to discriminate against people of a different sexual orientation, even though for the most part, that's the way they were born and there's nothing they can do to change it. And for those who would argue that homosexuality is a choice, I ask you: do you really believe that anyone in their right mind would voluntarily choose to be in a class of people who are constantly made fun of, despised, beaten up and even killed, discriminated against, fired from their jobs, denied housing, and prevented from marrying? For gay and lesbian people, this array of abuse is par for the course. If you believe that homosexuality is a personal choice, then you have not tried very hard to see this issue from a gay or lesbian person's point of view.

Well, I suppose this is as good a time as any for me to come out of the closet. I can't help the way I was born. It's just who I am. I've never announced this to a group publicly, but I guess it's about time. I am heterosexual. I am absolutely certain in my entire being that I could never be homosexual, no matter how hard I might try. I've never been attracted to another man in my life, and the idea of engaging in a homosexual act is foreign and distasteful to me. But just as I would hope that homosexual men and women could accept me for who I am, I promise to try to accept them for who they are. Why can't you do the same? Why can't we all do the same?

Hatred grows out of fear, and fear grows out of ignorance. Though I've never hated homosexuals, I used to fear them. When I was a kid growing up, the worst name you could call someone was a gay loser. And the stereotype that still pervades the minds of many in this chamber -- that of the highly aggressive, promiscuous gay man seeking countless, anonymous relationships -- is the stereotype that I grew up with, and the stereotype that contributes to volumes of ignorance and volumes of fear.

Over time, I've come to learn that this stereotype, like most stereotypes, is based on hearsay, not fact. The rogues who may fit the previous description are the exception to the rule, just as there are male heterosexual rogues who are aggressive, promiscuous, and constantly hitting on and harassing women.

In my evolving experience with homosexuals, familiarity has displaced ignorance and dispelled fear. I now count as friends and constituents many same-sex couples. Some have children. Most are in long-term, stable relationships. All are very decent, kind and normal people. I make no effort to judge the integrity of that they do in their bedroom, and to their credit, they've never judged the integrity of what I do in mine.

One lesbian couple I count as friends have two children the same age as my son and daughter. They attend the same elementary school as my children. They play together. They go to the same birthday parties. They swap overnights. These two children are healthy, bright, and courteous, and their parents probably do a better job of parenting than I do.

Though you may have personal, religious reasons why this arrangement seems distasteful to you, there is absolutely no way you could rationally argue that this is not a stable happy, healthy family. In a pluralistic society that allegedly values the separation of church and state, why can we not simply live and let live? Accept the reality that this couple's religious beliefes on homosexuality are different than yours. Just leave religion out of it, as our founding fathers and mothers saw fit. If the fruit which falls from the tree is good, the tree must also be good.

Indeed, there are many religious groups that openly and lovingly celebrate unions between same-sex couples. For example, Methodists, the United Church of Christ, Congregationalists, Reform Jews, the Metropolitan Community Church, Unitarian Universalists and Quakers.

There is no shortage of gay or lesbian couples that value and revere marriage. In fact, just last fall I attended the wedding of two women. Their son was present. The wedding was held in a local church. It was conducted by two ministers. And there were 150 family members and friends of the happy couple there to celebrate with them.

Yet, we're told by the bill's supporters that we need legislation to protect ourselves from this kind of marriage? No, ladies and gentlemen, this is not a marriage-protection bill. It is emphatically an anti-marriage bill. This rhetoric used by supporters of HF 2183 may be slick but it is grossly inaccurate. What are you trying to protect heterosexual marriages from? There isn't a limited amount of love in Iowa. It isn't a non-renewable resource. If Amy and Barbara or Mike or Steve love each other, it doesn't mean that John and Mary can't.

Marriage licenses aren't distributed on a first-come, first-served basis here in Iowa. Heterosexual couples don't have to rush out and claim marriage licenses now, before they are all snatched up by gay and lesbian couples.

Heterosexual unions are and will continue to be predominant, regardless of what gay and lesbian couples do. To suggest that homosexual couples in any way, shape or form threaten to undermine the stability of heterosexual unions is patently absurd.

And I know, you'll say: "What about the gay agenda?" Well, just as there turned out to be no

however, a strong, well-funded anti-gay agenda, and we have an example of its efforts here before us today.

All that gay and lesbian people are asking for is, if not understanding, then at least tolerance. All they are asking for is the same basic civil equality that all Americans yearn for and should be entitled to.

To those in this body who know in their hearts and consciences that this bill is wrong, yet are afraid to vote against it, I ask you to consider the powerful message this bill sends to the people of Iowa. It sends the message that discrimination against gays and lesbians is acceptable and officially sanctioned. It sends the message that it's OK to deny civil and equal rights to some minority groups in our society. It sends the message that the gift of marriage is good for some yet forbidden to others. And for those in my own party who plan to vote for this bill, it sends the message that Democrats, who have traditionally stood up for and protected everyone's civil rights, aren't willing to do so in the case of homosexuals.

If you are weighing the political consequences of opposing this bill and find they are too heavy, I'd like you to think about the great moral changes that have occurred in this country over the past 200 years. Ask yourself when you would have felt safe to speak in favor of the separation of the colonies from Great Britain? When would you have taken a public stand for the abolition of slavery? When would you have spoken in favor of women's suffrage? In the 1960s, when would you have joined Martin Luther King and others in calling for equal rights for African Americans? When would you have spoken out against restrictive marriage laws banning inter-racial marriages?

While the choice before us today -- between a green button or a red one -- is a difficult one to make, it is nowhere near as difficult or dangerous as the choices faced by the many freedom fighters who came before us.

We're elected not to follow but to lead. We're elected to cast what might sometimes be a difficult, challenging, and politically inexpedient vote. We're elected to represent our constituents when they're right, and to vote our consciences regardless of whether our constituents are right. And our conscience should be telling us to stand up for civil rights regardless of how unpopular it may appear.

The Reverend Dr. Martin Luther King Jr. once said, "A time comes when silence is betrayal." Such a time is now. With your no vote on this bill, you can help break the silence and stand with those who have no one to stand with them. Thank you.

* (Ed Fallon may be reached at efallon@house.legis.state.ia.us)

The Billings Gazette

TUESDAY, NOVEMBER 5, 1996

Publisher — Wayne Schile
Editor — Richard Wesnick
Opinion Page Editor — Gary Svee

Opinion

VIEWS ON GLOBAL, STATE AND LOCAL ISSUES

■ GOOD OLD DAYS?

Wishfulness blurs reality of the past

Marriage and 'family values' probably were never quite like what conservatives want

By KAREN LOVE
Wyoming writer and teacher

I guess we've made our decision about gay marriage. Bill Clinton has signed the "Defense of Marriage Act," giving states the legal right to refuse to recognize gay marriages, and we wait for further developments from the courts.

But I don't think the "Defense of Marriage Act" is going to stick. I don't mean that Congress will change its vote or that 65 percent of Americans who don't approve of gay marriage are going to change their minds. I just don't think we'll be able to avoid accepting gay marriages forever.

Some Americans like to think the "Defense of Marriage Act" is preserving some "idyllic" age when all our values were intact, an age when we knew what marriage meant. I'm not so sure. That age might have existed for some brief time in our personal memories, but as for a time when we all agreed, I doubt it.

When my grandparents came here as immigrants 90 years ago, they brought with them very specific prejudices about marriage. They believed strongly that their children could only be happy if they married within their immigrant group — in our case Finnish, but you may insert Italian, Polish, African-American etc.

One of their eight children married a woman of mixed descent named Jessiebell, very un-Finnish and therefore not a reliable marriage partner. She had no idea how to make the Finnish foods that Uncle Henry was accustomed to, and she wasn't a Lutheran. She belonged to some obscure (to them) Protestant church where she had been immersed instead of sprinkled! But Henry and Jessiebell defied their parents and married against all warnings. They have been married now for 60 years and have raised six children and a multitude of grandchildren and great-grandchildren.

But in their time, they had their own problems with wayward children. Rebels beget rebels, I guess. They were unwaveringly sure that their children would have miserable marriages if they married outside the Protestant faith. The dire warnings were that you would have to sign your children over to the Pope if you married a Catholic.

To us, it was bad enough that John F. Kennedy had been elected president and would probably be taking orders directly from the pope. But if you married a Catholic, they might insist on having liquor, an accordion band and dancing at the wedding. Our austere branch of Lutheranism believed that cutting the crusts off of tuna sandwiches and putting out pink and green mints was about as much as was decent in church. We kids marveled at the tales of our Polish Catholic neighbor boy who thought weddings were fun because he got to eat gumpkies and pierogis and carry beer to the band — a concept that boggled our Lutheran minds. This is what "mixed marriage" meant to us.

These fears weren't just in our family, however. Our good Italian Catholic neighbors — who have lived next-door now for 46 years — had the same fears that their children (our playmates) might play a little too much Monopoly on our back porch on late summer nights, take a liking to us Protestants and end up excommunicated. They were certainly not allowed to date us.

But eventually half of Henry and Jessiebell's six children did marry Catholics, as did many of my other cousins. Perhaps they thought Catholics had more fun. The first to slip away from the fold had to go off to West Virginia with her Catholic boyfriend because they were underage and their parents wouldn't sign for them. But we survived it and those two have now been happily married for 38 years and have a half-dozen grandchildren.

The definition of "mixed-marriage," at least as my family sees it, has been evolving slowly over the years. I'm sorry to say we missed out on that evolutionary step in the late '60s when Sidney Poitier's movie, "Guess Who's Coming to Dinner," brought to mainstream attention the idea of mixed-race marriages. But now with Clarence Thomas, an African American married to a white, on the Supreme Court and George Bush's partly Hispanic grandchildren, my family may move a little further along the spectrum of acceptance.

The pattern should be obvious. There was no time when prejudices about suitable marriage partners did not exist. And those who quote the Bible need to remember that it is not the Constitution of the United States.

I have no doubt that Americans will eventually accept gay marriage, if not right away for their own family, at least for people they don't know. And because two in every 100 people are gay, eventually one of our own will come home with the announcement. And to tell you the truth, I'll probably be a little traumatized, be it a child of mine, a grandchild or a great-grandchild. But I have no doubt our family will finally accept it. We've seen how wrong we have been in the past. One thing you just can't do is tell other people who to love.

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

DATE 2/13/97

BILL NO. HB 323 SPONSOR(S) Rep. Bohaveski

PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)
(PLEASE IDENTIFY TYPE OF VISITOR)

PLEASE PRINT

TYPE	NAME	ADDRESS	REPRESENTING
P	Terri Donaldson	Clancy, MT	Self
O	Charles H. Walter	Billings, MT	Self
O	Georgia A. Walter	2112 St Andrews Billings MT	Self
O	Connie Younkin	2808 Highwood Billings, MT	Self
O	Marilyn Futterer	Helena MT	Self
P	Linda Friend	723 Bridgeview, Helena	Self
O	Corky Smith	St. Regis, MT 38 Slowey W	Self - PFLAG
O	Carl J Donovan	127 2nd St BIK EAGLE, MT	SELF
P	Kathy Rocchio	Box 731 Bowler MT	self
O	Sondra Hale	PRIDE! Helena, MT	PRIDE!
O	GAIL WILLIAMS	KALISPELL	
O	Joyce M Halsten	Butte	P-FLAG
O	Starshine	Great falls	P-FLAG
O	Shirley Wideman	Great falls	PFLAG

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

DATE 2/13/97

BILL NO. #B 323 SPONSOR(S) R. Bahorski

PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)
(PLEASE IDENTIFY TYPE OF VISITOR)

PLEASE PRINT

TYPE	NAME	ADDRESS	REPRESENTING
S	Laurie Koutnik	921 Euclid	CHRISTIAN COALITION of MT
O	Claudia Montagne	704 S Sate	Self
S	Sharon Hoff	Box 1708 Hln	MT Catholic Conf
O	David Arkendorff	505 Logan, Helena	St. Pauls United Methodist
O	Jesse Jaeger	Missoula	N/A
O	E Mackingall Palmer	Missoula	Unitarian Universalist Fellowship of Missoula
O	Susanne Lay	Helena	Self
O!	MARK CADWALLADER	HELENA	SELF/CITIZEN
O	Pam Dale	Helena	self
P	Karen Weber	Helena	self
P	Jill Guthrie	Helena	self
P	Sharon Turner	Helena	self
O	Linda Gryczan	Clancy	self
P	Kathlene Fleckenstein	P.O. Box 1958 Corvallis	Unitarian Universalist Association of Congregations

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MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

DATE 2/13/97

BILL NO. HB 323

SPONSOR(S) R. Bohlinski

PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)
(PLEASE IDENTIFY TYPE OF VISITOR)

PLEASE PRINT

TYPE	NAME	ADDRESS	REPRESENTING
O	Denise Chumrau	Msla	Self
O	Robin Childers	"	"
O	Betty DeLaCen	Lake F.	P-FLAG
O	Eleanor Turkish	Helena	Self
S	Arlette Randash		Family Farm
O	Carol Muir	Helena	self
O	R Sasser	Helena	self
O	Christine Kaufmann	Helena	MT Human Rights Network
I	Shannon O'Connor	Helena	Self
O	Lance P Kulda	Gt Falls	self
O	Bruce Crist-Anderson	GTFPS	Self
O	Kate Cholewa	Helena	MT Women's Lobby
O	Dr. Jeff Feathergill	Helena	Self
P	Sandra Wain	BZN	Self

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MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

DATE 2/13/97

BILL NO. HB 323 SPONSOR(S) K. Bohoski

PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)
(PLEASE IDENTIFY TYPE OF VISITOR)

PLEASE PRINT

TYPE	NAME	ADDRESS	REPRESENTING
P	Kraig Hollesman	Helena	Self
O	Christine Phillips	Helena	Self
P	Jen Rebo	Helena	self
O	Sandra Boggs	Helena	Self
P	Doray Hanson	Bozeman	self and Montanans Universalist Assoc
O	Holly Franz	Helena	self
P	Inez Howcott	Helena	Self

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on February 19, 1997, at 8:00 AM, in Room 312-1.

ROLL CALL

Members Present:

Rep. Bob Clark, Chairman (R)
Rep. Daniel W. McGee, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell W. Anderson (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Duane Grimes (R)
Rep. H.S. "Sonny" Hanson (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Brad Molnar (R)
Rep. Gerald Pease (D)
Rep. Diane Sands (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)

Staff Present: John MacMaster, Legislative Services Division
Joanne Gunderson, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted:	HB 571, HB 572, HB 577, HJ 28 POSTED 2/18/97
Executive Action:	HJ 28 DO PASS AS AMENDED
	HB 429 DO PASS AS AMENDED
	HB 416 TABLED
	HB 323 DO PASS

HEARING ON HB 571

Opening Statement by Sponsor: **REP. HALEY BEAUDRY**
{Tape: 1; Side: A; Approx. Time Count: 2.3; Comments: This set of minutes was recorded on 90-minute tapes.}

Discussion:
{Tape: 3; Side: A; Approx. Time Count: 22.6}

Vote: The motion carried 16 - 3; REPS. ELLINGSON, SANDS and HURDLE voting no. (REP. MC CULLOCH was absent for the vote.)

EXECUTIVE ACTION ON HB 416

Motion: **REP. BOHARSKI moved HB 416 DO PASS.**

Motion/Vote: **REP. MC GEE moved HB 416 be tabled.** The motion carried 14 - 6; REPS. WYATT, MC CULLOCH, HANSON, MOLNAR, BOHARSKI and CLARK voting no.

Discussion: HB 163 was discussed and action postponed.

EXECUTIVE ACTION ON HB 323

Motion: **REP. MC GEE moved HB 323 DO PASS.**
{Tape: 3; Side: A; Approx. Time Count: 28.7}

Discussion:
{Tape: 3; Side: A; Approx. Time Count: 29.1 - 30.6}

Motion: **REP. DIANE SANDS moved to amend HB 323** **EXHIBIT 4**
{Tape: 3; Side: A; Approx. Time Count: 30.7}

Discussion:
{Tape: 3; Side: A; Approx. Time Count: 30.8 - 37.2; Comments: Discussion included whether the amendment was outside the scope of the title of the bill.}

Vote: The motion failed 7 - 14; REPS. WYATT, MC CULLOCH, PEASE, KOTTEL, HURDLE, SANDS and ELLINGSON voting aye.
{Tape: 3; Side: A; Approx. Time Count: 37.3}

Motion: **REP. ELLINGSON moved amendments to HB 323.** **EXHIBIT 5**
{Tape: 3; Side: A; Approx. Time Count: 38.6}

Discussion:
{Tape: 3; Side: A; Approx. Time Count: 39.3-Tape 3; Side B; 4.3}

Vote: The motion failed 6 - 14. REPS. ELLINGSON, PEASE, HURDLE, SANDS, KOTTEL and MC CULLOCH voting aye.

Discussion:
{Tape: 3; Side: B; Approx. Time Count: 5.2}

Vote: The motion to DO PASS HB 323 carried 15 - 5; REPS. PEASE, SANDS, KOTTEL, ELLINGSON, and HURDLE voting no.

Motion/Vote: **REP. MC GEE MOVED TO ADJOURN.** The motion carried by unanimous voice vote.

EXHIBIT 4
DATE 2/12/97
HB 323

Amendments to House Bill No. 323
First Reading Copy

Requested by Rep. Sands
For the Committee on the Judiciary

Prepared by John MacMaster
February 13, 1997

1. Title, line 4.
Following: "MARRIAGE"
Insert: "AND PROVIDING FOR DOMESTIC PARTNERSHIPS"

2. Page 1, line 20.
Insert: "NEW SECTION. **Section 2. Domestic partnerships.** (1) The secretary of state shall adopt rules providing a definition of domestic partnership and a process for establishing and terminating a domestic partnership by persons prohibited from marriage under 40-1-401(1)(d).

(2) A domestic partnership is the full legal equivalent of a contract under 40-1-103.

EXHIBIT 5
DATE 2/19/97
HB 323

Amendments to House Bill No. 323
First Reading Copy

Requested by Rep. Ellingson
For the Committee on the Judiciary

Prepared by John MacMaster
February 14, 1997

1. Title, line 5.
Following: "SEX;"
Insert: "PROVIDING FOR THE ESTABLISHMENT AND REGULATION OF DOMESTIC PARTNERSHIPS BETWEEN PERSONS OF THE SAME SEX;"

2. Page 1, line 20.
Insert: "NEW SECTION. **Section 2. Definitions.** As used in [sections 2 through 5], the following definitions apply:

(1) "Basic living expenses" means basic food and shelter. It also includes any other costs, such as medical care costs, for which a partner is receiving a reimbursement or benefit because the partner is a member of a domestic partnership.

(2) "Declaration of domestic partnership" means a declaration in a form provided by the secretary of state. By signing it, two people swear under penalty of false swearing, as prohibited in 45-7-202, that they meet the requirements of the definition of domestic partner. The form must require each partner to provide a mailing address.

(3) "Domestic partners" means two adults of the same sex who have chosen to share one another's lives in an intimate and committed relationship of mutual caring. The requirements of a domestic partnership are:

(a) the two persons must live together;

(b) the two persons must agree to be jointly responsible for each person's basic living expenses;

(c) a domestic partner may not be married or a member of another domestic partnership;

(d) the two persons must not be related in a way that would prevent them from being married to each other;

(e) both persons must be over 18 years of age; and

(f) the two persons must sign a declaration of domestic partnership and establish the partnership under [section 3].

(4) "Jointly responsibile" means that each partner agrees to provide for the other partner's basic living expenses if the other partner is unable to provide them. Any person to whom the expenses are owed may enforce the responsibility.

(5) "Live together" means that two persons share the same place to live. It is not necessary that the legal right to possess the place be in both of their names. Two persons may live together even if one or both have additional places to live. Domestic partners do not cease to live together if one leaves the shared place but intends to return.

NEW SECTION. **Section 3. Establishing a domestic partnership.** (1) Two persons of the same sex may establish a

domestic partnership by presenting a signed declaration of domestic partnership to the secretary of state, who shall file it and give the domestic partners a certificate showing that the declaration was filed.

(2) A person who was a member of a prior domestic partnership may not become a member of a domestic partnership until at least 6 months after the end of the prior domestic partnership and at least 6 months after a notice that the prior partnership ended was given, unless the earlier domestic partnership ended because one of the members died.

NEW SECTION. **Section 4. Ending a domestic partnership.** (1) A domestic partnership ends when:

(a) one domestic partner gives the other a written notice that the domestic partner giving the notice has ended the domestic partnership;

(b) one of the domestic partners dies; or

(c) one of the domestic partners marries or the domestic partners no longer live together.

(2) If a domestic partnership ends for a reason other than the death of one of the domestic partners, at least one of the domestic partners shall give the other domestic partner a notice stating that the domestic partnership has ended. The notice must be dated and signed under penalty of false swearing, as prohibited in 45-7-202. The notice must be filed with the secretary of state.

(3) If a domestic partnership ends, a domestic partner who has given a copy of a declaration of domestic partnership to a third party in order to qualify for a financially valuable benefit or, if that domestic partner has died, the surviving member of the domestic partnership, must give the third party a notice signed under penalty of false swearing, as prohibited in 45-7-202, stating that the domestic partnership has ended. The notice must be given within 60 days of the end of the domestic partnership. A third party who suffers loss as a result of failure to give notice may sue the domestic partner who was required to give notice for the actual loss.

(4) Failure to give either of the notices required by this section does not prevent or delay the ending of a domestic partnership.

NEW SECTION. **Section 5. Legal effect of a domestic partnership.** (1) The obligations of domestic partners to each other are those stated in [section 2(3)], unless the domestic partners agree in a writing that both sign, to assume additional obligations.

(2) If a domestic partnership ends, the domestic partners incur no further obligations to each other.

(3) The district court has jurisdiction to hear and decide disputes about rights of action in regard to domestic partners and a domestic partnership.

(4) Domestic partners are in the line of intestate succession behind spouses and take as a spouse would.

(5) Domestic partners follow spouses in the order of preference for appointing guardians and conservators.

(6) For the purposes of any health care decisions that a domestic partner is unable to make, the other domestic partner has the rights and responsibilities a spouse has.

(7) For the purpose of a tax on the ownership or transfer in whole or in part of any interest in real or personal property, ownership by one or both members of a domestic partnership must be treated as ownership by one or both spouses.

(8) (a) A health care facility that restricts a patient's visitors must allow a domestic partner to name the other domestic partner as a person authorized to visit.

(b) If a domestic partner with whom visiting is restricted has not named the other domestic partner as an authorized visitor and has not stated that visitors are not desired, the facility must allow the patient's domestic partner and a domestic partner of the patient's parent or child to visit, unless no visitors are allowed or the facility decides that the presence of a particular visitor authorized for visitation would endanger the primary operations of the facility."

HOUSE STANDING COMMITTEE REPORT

February 19, 1997

Mr. Speaker: We, the committee on **Judiciary** report that **House Bill 323** (first reading copy -- white) **do pass**.

Signed: Bob Clark

Bob Clark, Chair

2-19-97

Committee Vote:
Yes 15, No 5.

391342SC.Hgd

SENATE JUDICIARY

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE	REREFERRED	DATE READ
HB0306	3/07	3/24		TABLED ON 03/27 VOTE:7-3		
HB0321	MCCULLOCH, LINDA 2/08	2/20	MAKE IT AN OFFENSE TO OBSTRUCT A PROCESS SERVER	CONCUR VOTE: 10-0	2-20	2/20
HB0323	BOHARSKI, WILLIAM 3/03	3/17	PROHIBIT SAME-SEX MARRIAGES	CONCUR VOTE: 7-3	3-18	3/19
HB0325	BRAINARD, MATT 2/19	3/10	AMEND CONST. TO MANDATE GRAND JURY IF PEOPLE PETITION FOR ONE	TABLED ON 03/11 VOTE:		
HB0337	BOHLINGER, JOHN 2/19	3/04	IMMUNITY FOR DENTISTS WHO PROVIDE CHARITABLE SERVICES	CONCUR AS AMENDED VOTE: 10-0	3-4	3/06
HB0339	CAREY, BILL 2/11	3/11	CHANGE PENALTY FOR ONE UNDER 21 WHO FAILS DUI TEST	CONCUR AS AMENDED VOTE: 9-1	3-13	3/15
HB0343	GRIMES, DUANE 2/13	3/10	REVISE DOMESTIC VIOLENCE LAWS	CONCUR AS AMENDED VOTE: 10-0	3-11	3/12
HB0346	TROPILA, JOE 3/03	3/13	GENERALLY REVISING LAWS RELATING TO MANDATORY MOTOR VEHICLE INSURANCE	CONCUR AS AMENDED VOTE: 10-0	3-13	3/15
HB0352	SLITER, PAUL 2/19	3/10	IMMUNIZE OWNER OF STOLEN PROPERTY FROM LIABLE LATER OCCURRING	CONCUR AS AMENDED VOTE: 7-3	3-11	3/12
HB0401	BARNETT, JOE 2/19	3/12	REVISE LAWS GOVERNING BAIL	CONCUR AS AMENDED VOTE: 10-0	3-12	3/14
HB0411	AHNER, CHRIS 2/19	3/12	MAKE IT AN OFFENSE TO TATTOO A MINOR WITHOUT PARENTAL CONSENT	CONCUR VOTE: 10-0	3-12	3/13
HB0426	KOTTEL, DEB 2/20	3/18	REVISE UNIFORM COMMERCIAL CODE LETTERS OF CREDIT AND SECURITIES	CONCUR AS AMENDED VOTE:10-0	3-19	3/21
	WELLS, JACK		GENERALLY AMEND CONCEALED WEAPON PERMIT LAW			

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BRUCE D. CRIPPEN**, on March 17, 1997, at 9:00 a.m., in the Senate Judiciary Chambers of the State Capitol, Helena, Montana.

ROLL CALL

Members Present:
Sen. Bruce D. Crippen, Chairman (R)
Sen. Lorents Grosfield, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Sharon Estrada (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter L. McNutt (R)

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Jody Bird, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: HB 299, 303, 323, posted March 4, 1997
Executive Action: None

HEARING ON HB 299 and 303

Sponsor: REP. WILLIAM BOHARSKI, HD 79, Kalispell

Proponents:
Lisa Morris, Ronan
Roland Morris, Ronan
Arlette Randash, Eagle Forum
Laurie Koutnik, Christian Coalition of Montana
Charles Lorentzen, Self
David Tschida, Self

Opponents:
REP. GEORGE HEAVY RUNNER, HD 85, Browning
REP. HAL HARPER, HD 52, Helena

I found an interview that Martin Luther King did with Playboy magazine concerning granting money for preferential treatment. He said, "I do not intend this to apply only to the Negro, but to the disadvantaged of all races."

Greg Petesch said race-based preference at the University System was put into the Code in 1988 and 1991; bison were put on in 1995, so there is not a long history of this. These bills are right, ethical and moral.

{Tape: 2; Side: A; Approx. Time Count: #32.3; Comments: None}

HEARING ON HB 323

Sponsor: REP. WILLIAM BOHARSKI, HD 79, Kalispell

Proponents:
Carole Allison
Geri Brandt
David Tschida, Kalispell
Charles Lorentzen, Kalispell
Laurie Koutnik, Montana Christian Coalition
Sharon Hoff, Montana Catholic Conference
Arlette Randash, Eagle Forum

Opponents:
REP. DIANE SANDS, HD 66, Missoula
Fern Hart, Missoula
Margaret Hale, mother of two gay daughters
Lance Kaldar
Rev. David Orendorff, Helena
Linda Gryczan
Sandra Hill, Executive Director, Pride
Julie Chriske,
Shirley Wideman, PFLAG
D. Starshine, PFLAG, Great Falls
Kathlene Fleckenstein, Unitarian Univeralist Association of Congregations
Christine Kaufman, Montana Human Rights Network
Aart Dolman, Great Falls
Suzanne Wasilczuk, Unitarian Universalist Fellowship of Missoula
Les Childers
Scott Crichton, ACLU, parent and friend of PFLAG

Opening Statement by Sponsor: REP. WILLIAM BOHARSKI, HD 79, Kalispell. Line 16 of the bill prohibits marriage between persons of the same sex. (He read the current definition of marriage in the MCA, which refers to a man and a woman.)

The Code Commissioner said that under Title I, 1-1-201, Subsection (2), wherever "man" or "men" is used in combination with other syllables such was "work" it shall also be read as "workwoman". I don't believe the state wants to end up in a

legal battle and leave this decision to the Montana Supreme Court.

I was unable to get the amendment from the Hawaii Attorney General concerning the Defense of Marriage Act and the Constitutional precedent so the State of Montana would not have to recognize this. **(EXHIBITS #26, #27, and #28)**

{Tape: 2; Side: B; Approx. Time Count: #00; Comments: None}

Proponents' Testimony: **Carole Allison, Billings** read from a prepared statement **(EXHIBIT #29)**. I left the lesbian lifestyle behind four years ago. Former estimates said approximately 5-13 percent of the population was gay, but the recent estimate is about 1 percent. I believe this is a merry-go-round of unhealthy relationships.

In electricity there is a positive and a negative flow, and so it needs to be with a man and a woman, not woman and woman. Homosexuality is a reversible condition, and there is no reason to have same sex marriages. There is nothing normal or natural about some of their practices which are driven by lust and not love. Nineteen times more gay males and fourteen times more gay females are likely to contract syphilis, gonorrhea, and hepatitis A & B. Fifty percent of gay men are HIV positive.

Their love is condition, and children can't be born of such unions. It is not natural for a child to have two moms or two dads. Their lifestyle is a smoke screen to get approval.

I left this to separate myself from it, and I will support anyone wanting to leave it. Higher Ground in Billings assists such people. There is freedom from the gay lifestyle. It's not that they can't change, but that they won't. We must love and accept them, but reject he act.

I have a video on Gay Rights: Private Lives and Public Policy for anyone on the Committee who wishes to review it.

Geri Brandt (EXHIBIT #30), Billings. I am asking you to support HB 323. I was gay for 20 years. Homosexuality is a choice. Many gays are trying to use scripture to confirm their lifestyle, but they feel something is not quite right. There are no homosexuals anywhere in my family history.

I needed to understand manhood and womanhood as God designed it. I struggled with why something was not quite right, no matter what. Their answer is to get laws on the books to make themselves right.

The homosexual says they can't change, but I did. It's what they do, but not who they are. They want special rights to meet their lifestyle. Most are good citizens, but they even want our children to accept and embrace their lifestyle with all of its

lies. There is a gay teacher's coalition to drive our homophobia. New York has a gay high school, and teaches and advertises gay sex. The Rainbow curriculum is pro-sodomy, and is given to first graders. It's also in Montana schools in Billings. I am asking the Committee to stand for what is right.

David Tschida, Kalispell read from a prepared statement in support of the bill **(EXHIBIT #31)**.

{Tape: 2; Side B; Approx. Time Count: #12.0; Comments: 11:20 a.m.}

Charles Lorentzen, Kalispell (EXHIBIT #31a) read from a prepared statement in support of the bill.

Laurie Koutnik, Montana Christian Coalition, (EXHIBIT #32) read from a prepared statement. Senators Baucus and Burns signed the Definition of Marriage Act last year, and President Clinton signed it into law.

Sharon Hoff, Montana Catholic Conference (EXHIBIT #33), stated her support of the bill.

Arlette Randash, Eagle Forum (EXHIBIT #34), stated her support of the bill.

{Tape: 2; Side: B; Approx. Time Count: #17.6; Comments: None}

Opponents' Testimony: **REP. DIANE SANDS.** As a lesbian in a long term relationship, I want to talk about life, liberty and the pursuit of happiness. Some gays get married in church services. Gays break up, like heterosexuals. No civil rights movement in the U.S. has ever failed. Change is difficult and homosexuality is very threatening to most people. Legislators swear an oath to uphold the Constitution. I urge the Committee to oppose this bill.

Fern Hart, Missoula (EXHIBIT #35). This bill isolates gays. I am a member of the University Congregational Church in Missoula. Ten years ago the selection committee chose a lesbian for a minister and it tore the congregation apart, so they chose another candidate. Then we studied this until 1993, and now we don't discriminate based upon sexual orientation. I grew up in the South when Martin Luther King was killed and there were riots. I am asking you to oppose this bill.

{Tape: 2; Side: B; Approx. Time Count: #28.0; Comments: None}

Margaret Hale, mother of two gay daughters. I have been married for many years and have two sons in the military and two daughters who are professionals and are lesbians. I strongly oppose this bill.

Lance Kaldar and Bruce Christopherson (EXHIBIT #36). We have gone through a union ceremony, and ask you to oppose this bill.

Rev. David Orendorff, Helena (EXHIBIT #37) self and pastor of St. Paul's United Methodist Church read from prepared testimony in opposition to the bill. We formed one of the earliest chapters of PFLAG. I looked through the Bible concerning homosexuality and found it of no help, so I believe it should be left to our experiences to decide this matter.

Linda Gryczan. I am in a gay union which would be destroyed by this bill.

Sandra Hill, Executive Director, Pride, (EXHIBIT #38) read from prepared testimony in opposition to the bill.

{Tape: 3; Side: A; Approx. Time Count: #00; Comments: 11:52 a.m.}

Julie Chriske, (EXHIBIT #39). I am a private citizen, mother, and lesbian, and am concerned about the comments that homosexuality spreads diseases. I believe this is a "holy bill", based on fear and power.

Shirley Wideman, PFLAG (EXHIBIT #40). I oppose this bill.

Starshine, PFLAG, Great Falls, (EXHIBIT #41). I ask the Committee not to pass this legislation.

Kathlene Fleckenstein, Unitarian Univeralist Association of Congregations (EXHIBIT #42), stated her opposition to the bill.

Christine Kaufman, Montana Human Rights Network, (EXHIBIT #43), stated her opposition to the bill, and provided an amendment concerning partners **(EXHIBIT #44)**.

Aart Dolman, Great Falls, (EXHIBIT #45), stated his opposition to the bill.

Suzanne Wasilczuk, Unitarian Universalist Fellowship of Missoula, stated her opposition to the bill.

Les Childers. My friend died of AIDS on 9-23-89. I feel he wouldn't have died if he'd had the chance to be in a committed, monogamous relationship.

Scott Crichton, ACLU, parent and friend of PFLAG (EXHIBIT #46). A number of members of my family would be directly affected by this legislation. We need to treat them as equals and not as pariahs.

Letter also received from **Margie Kaldor (EXHIBIT #47).**

Questions From Committee Members and Responses: **CHAIRMAN CRIPPEN advised the Committee that questions would be heard at executive session since both parties had caucuses scheduled at noon.**

Closing by Sponsor: **REP. BOHARSKI.** This is not a mean-spirited or hateful bill. These people don't know my heart. I want to protect the institution of heterosexual marriage, and ask that you read 40-1-401, MCA, as it could be conceived to be equally hateful, as well.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 26
DATE 3-17-97
re: HB323

Filed in the First Circuit Court, State of Hawaii
11:06 a.m., Dec. 3, 1996
R.S. Yamada, clerk

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

CIVIL NO. 91-1394

FINDI
CONCL

NINIA BAEHR, GENORA DANCEL, TAMMY RODRIGUES, ANTOINETTE PREGIL, PAT LAGON, AND JOSEPH MELILLO,

Plaintiffs,

vs .

LAWRENCE H. MIIKE, in his official capacity as Director of the Department of Health, State of Hawaii,

Defendant.

Exhibit # 26 HB 299 & 303
Petitioners
The full exhibit is available from:
MT Historical Society Archives
225 North Roberts
P.O. Box 201201
Helena, MT 59620-1201
Phone # (406)444-4774

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This case came on for trial before the Honorable Kevin S.C. Chang on September 10, 1996. Plaintiffs Ninia Baehr, Genora Dancel, Tammy Rodrigues, Antoinette Pregil, Pat Lagon, and Joseph Melillo were represented by attorneys Daniel R. Foley, Evan Wolfson and Kirk H. Cashmere. Defendant Lawrence H. Miike was represented by Deputy Attorney Generals Rick J. Eichor and Lawrence Goya. The Court having reviewed all the evidence admitted at the trial and having considered the arguments and other written submissions of counsel for the parties and the briefs filed by the amicus curiae, hereby makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACTS

I. THE PARTIES

1. At all times relevant herein, Plaintiffs Ninia Baehr, Genora Dancel, Tammy Rodrigues, Antoinette Pregil, Pat Lagon and Joseph Melillo (hereinafter collectively referred to as "Plaintiffs") were or are residents of the City and County of Honolulu, State of Hawaii.

2. Defendant Lawrence H. Miike ("Defendant") is a resident of the City and County of Honolulu. State of Hawaii. Defendant Miike is sued in his official capacity as Director of Department of Health, State of Hawaii. [When this lawsuit was commenced, John Lewin was the Director of Department of Health, State of Hawaii. Thereafter, pursuant to Rule 43(c) of the Hawaii Rules of Appellate Procedure, Defendant Miike was automatically substituted for Defendant Lewin when he assumed the position of the Director of Department of Health,

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 27
DATE 3-17-97
BILL NO. HB323

DOMESTIC PARTNERSHIP LAW

Sec. 1 PURPOSE

The purpose of this statute is to create a way to recognize intimate committed relationships.

Sec. 2 DEFINITIONS

a. Domestic Partners. Domestic Partners are two adults of the same sex who have chosen to share one another's lives in an intimate and committed relationship of mutual caring. The requirements to be domestic partners are:

(1) the two must live together;
(2) the two must agree to be jointly responsible for each other's basic living expenses during the Domestic Partnership;
(3) neither person may be married or a member of another domestic partnership;
(4) the two must not be related in a way which would prevent them from being married to each other;
(5) both must be over 18;
(6) the two must sign a Declaration of Domestic Partnership and establish the partnership under section 3.

b. "Live Together." "Live together" means that two people share the same place to live. It is not necessary that the legal right to possess the place be in both of their names. Two people may live together even if one or both have additional places to live. Domestic Partners do not cease to live together if one leaves the shared place but intends to return.

c. "Joint Responsibility for Basic Living Expenses." "Basic living expenses" means basic food and shelter. It also includes any other costs (for example, medical care costs) for which a partner is receiving some reimbursement or benefit (for example, health care benefits) because she or he is a member of a domestic partnership. "Joint Responsibility" means that each partner agrees to provide for the other partner's basic living expenses if the partner is unable to provide for herself or himself. Anyone to whom these expenses are owed can enforce this responsibility.

d. "Declaration of Domestic Partnership." A "Declaration of Domestic Partnership" is a form provided by the Secretary of State. By signing it, two people swear under penalty of perjury that they meet the requirements of the definition of domestic partnership when they sign the statement. The form will require each partner to provide a mailing address.

Sec. 3 ESTABLISHING A DOMESTIC PARTNERSHIP

a. Methods. Two persons of the same sex may establish a Domestic Partnership by presenting a signed Declaration of Domestic Partnership to the Secretary of State, who will file it and give the partners a certificate showing that the Declaration was filed.

b. Time Limitation. A person can not become a member of a Domestic Partnership until at least six months after any other Domestic Partnership of which he or she was a member ended and a notice that the partnership ended was given. This does not apply if the earlier domestic partnership ended because one of the members died.

Sec. 4 ENDING DOMESTIC PARTNERSHIPS

a. When the Partnership Ends. A Domestic Partnership ends when:

(1) one partner sends the other a written notice that he or she has ended the partnership; or

(2) one of the partners dies; or

(3) one of the partners marries or the partners no longer live together..

b. Notice the Partnership has ended.

(1) To Domestic Partners. When a Domestic Partnership ends for a reason other than the death of one of the partners, at least one of the partners must sign a notice saying that the partnership has ended. The notice must be dated and signed under penalty of perjury. The notice must be filed with the Secretary of State. The partner who signs the notice must send a copy to the other partner.

(2) To Third Parties. When a Domestic Partnership ends, a Domestic Partner who has given a copy of a Declaration of Domestic Partnership to any third party in order to qualify for any financially valuable benefit (or, if that partner has died, the surviving member of the partnership) must give the third party a notice signed under penalty of perjury saying that the partnership has ended. The notice must be sent within 60 days of the end of the partnership. A third party who suffers loss as a result of failure to send this notice may sue the partner who was obliged to send it for actual loss.

(3) Failure to Give Notice. Failure to give either of the notices required by this subsection will neither prevent nor delay ending the Domestic Partnership.

Sec. 5 LEGAL EFFECT OF DOMESTIC PARTNERSHIP

a. Obligations. The obligations of domestic partners to each other are those described in the definition, unless the partners agree in a writing which both sign to assume additional obligations.

b. Duration of Rights and Duties. If a domestic partnership ends, the partners incur no further obligations to each other.

c. Superior Court. The Superior Court will have jurisdiction to hear and decide disputes about the rights of action of domestic partners.

Sec. 6 INTESTATE SUCCESSION

Domestic Partners are in the line of intestate succession behind spouses and take as a spouse would.

Sec. 7 GUARDIANSHIP OF CONSERVATORSHIP

Domestic partners follow spouses in the order of preference for appointing Guardians and Conservators.

Sec. 8 HEALTH CARE DECISIONS

For the purposes of any health care decisions which a partner is unable to make for him or herself, a domestic partner will have the rights and responsibilities a spouse would.

Sec. 9 TAXES ON PROPERTY

For the purpose of any tax on the ownership or transfer (in whole or in part) of any interest in real or personal property, ownership by one or both members of a domestic partnership shall be treated like ownership by one or both spouses.

Sec. 10. HOSPITAL VISITATION

a. When a health-care facility restricts a patient's visitors, the health-care facility shall allow every patient to name those individuals whom the patient authorizes to visit, unless:

(1) no visitors are allowed; or

(2) the facility decides that the presence of a particular visitor named by the patient would endanger the primary operations of the facility.

b. If a patient with whom visiting is restricted has not made the designation described in subsection (a), and if the patient has not stated that she or he wishes no visitors, the facility must allow the patient's domestic partner, and the domestic partner of the patient's parent or child to visit, unless:

(1) no visitors are allowed; or

(2) the facility decides that the presence of a particular visitor authorized for visitation under this subsection would endanger the primary operations of the facility.

3-17-97
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3-17-97
NB 323

Same-Sex 'Marriage'

"For the gay and lesbian community, the issue of same-sex marriage is larger than simply the desire to marry legally...

"...It's the final tool with which to dismantle all sodomy statutes, get education about homosexuality and AIDS into public schools, and, in short, usher in a sea change in how society views and treats us. Our gay leaders must acknowledge that gay marriage is just as radical and transformative as the religious right contends it is."

—Michaelangelo Signorile in the May 1996 issue of Out magazine

SENATE JUDICIARY COMMITTEE #6
EXHIBIT NO. 29
DATE 3-17-97
BILL NO. HB323

Carole Allison
Billings Montana

Mr. Chairman
Members of the Committee

Four years ago, I did the "unthinkable!" What the gay community said couldn't be done! I did! I left my lesbian lifestyle behind and became "straight."

After years of hearing that:
It's O.K. to be gay!
God made you this way!
God loves you just the way you are!
You can't change, your gay!

I firmly believed that:

My life and my world was bordered by these words. I felt safe as long as I was with my gay friends and I stayed within those boundaries. I have had several relationships, some short, some long, but never forever. They all started out great and with good intentions, but all of them after a time, failed.

You may wonder "How many gay people are there in our community?" Dr. John Gonsioric - an advocate of Homosexual Position - said that to his finding they are approximately 5-13% of the population. However the Allen Gutenmacher Research, done recently, found that only about 1% are actually Homosexual. This is part of the strategy to convince you that Homosexuality is so wide spread that it must be normal.

Because of the small circle of friends, when you get into a new gay relationship, it's usually with your friends x-partner or x-lover. Every new relationship you get into, you ~~think~~ believe is the relationship that will last forever.

~~Then~~, usually within a short time, you realize the connection is not quite right and you find yourself looking for another partner. It's a merry go round of unhealthy situations. Very few make it to the "long term" relationship. It's two people trying to play parts, but you got to have the right parts.

If a fireman goes out to put out a house fire, he better have the right connection on the hoses. A female end connected to a male end of the hose, otherwise there won't be much of a water flow to put out the fire. Electricity - You must have a positive and a negative connection, otherwise there is no current. Life is full of connections, but you must

have a good connection in order for things to function properly. The point is, there are no good connections in same sex relationships.

Homosexuality is a reversible condition. There are many men and women struggling with their sexual identity. But you don't have to be gay! There is not one reason why we should alter the rules. Same sex marriages will never work. It's a pandora's box. Homosexuals want to persuade you that it's "normal."

What is normal? Webster defines it as "occurring naturally." There is northing normal or natural about two people of the same sex being married to each other. Some parts don't fit. For the sake of the audience, I will refrain from explaining and describing such words as fellatio, rectal sex, rimming, fisting, golden showers, and S&M or sado masochisms. These are some of the sexual practices that are common in a gay lesbian relationships, but I know from experience they are far from being normal or natural. Gays are driven more by lust than by love....therein lies the reason for the frequencies and short duration of these relationships and the increased health risks.

Also, please do not discount the use of pornography

Here are the facts:

1) Lesbian and homosexual men are 19 times and 14 times more likely, respectively, to contract syphilis according to the American Journal of Public Health.

2) Homosexuals account for an overwhelmingly disproportionate number of cases of ghonorea, hepatitis A and hepatitis B according to the Journal of American Medial Association. Need I mention that 50% of male homosexuals are HIV positive.

But you will hear from them words like: *Love, Trust, Commitment.* But their relational history will tell you that *love* is conditional, *trust* is often violated, and *commitment* is short lived. Children can never be born to these same sex marriages as a result of their sexual copulation because authentic sexual union never takes place. Some are now using artificial insemination and adoption to have children but is it normal or natural for a child to have two mommies or two daddies.

Many people have chosen to leave the gay lifestyle. It is not an overnight journey. There is a lot of silent pain. The reality of change is dealt with everyday. Learning who I was and who I was created to be slowly began to manifest itself in me. After a time, I no longer struggled for sexual identity.

Lesbianism/Homosexuality is a changeable condition. The whole truth is not being told to you, it is being suppressed. It's a smoke screen to get approval. They will tell you that anyone coming out of the Gay lifestyle was never truely gay to begin with. A true gay never leaves. But I'm standing here today and saying to you, that I was a true gay for many years, I was very active in the gay community, a member of the Metropolitan Community Church (a gay church) founded by Troy Perry.

I have very good friends that are gay, professional people, affluent people, but I ~~also~~ made a choice. This time, it was to leave lesbianism behind and go forward---not to forsake my friends but to separate the act of Homosexuality from the Homosexual. I can no longer support the Homosexual act---but I do support any gay or lesbian who wants to step out of the lifestyle. The organization "Higher Ground" in Billings offers support and counseling to men and women choosing to leave Homosexuality without condemning the person.

You can overcome Homosexuality. There is a way out of the gay lifestyle. Ten's of thousands have done it successfully. Many have married and now have children. You would never know that they were once gay. They too made a choice.

It's time for people like me - x-gay - to show you the other side of this coin. There is freedom from this way of living. Maybe it's the first time you have heard someone tell you that it's possible to change. I'm just one of thousand's who has proven that the gay movement is wrong when they say they can not change. It's not that they can not change, it's that the will not change. Making such a choice requires you to say no to many practices and be open to change. Like I said, it's not an overnight journey! Many choose not to embarque on such a journey. The Gay lifestyle is their feeding ground. It's where they get love, attention, comfort, acceptance, affirmation that it is O.K. to be gay. We, on this side of the barrier, must also show them love, attention, comfort, acceptance of who they are not for what they do.

We must separate the act from the person.

Accept the person but reject the act.

Mr. Chairman, I was faced with a choice. I chose not to be gay. Every homosexual is faced with the same choice. You too are faced with a choice today. Please pass this bill, otherwise our divorce courts will simply bog down due to the instability of homosexual unions. Furthermore, by prohibiting same sex marriages you are upholding the truth that homosexual unions are ~~a lie~~ wrong

On the other hand should this bill not pass, homosexuals would be encouraged to continue practicing unnatural and unhealthy sexual practices. And others might be persuaded to consider it a legitimate alternative lifestyle.

If anyone of you would like to view the video Gay Rights: Private Lives and Public Policy please see me after the hearing and I will lend it to you. I would also welcome any questions you might have. Please support HB 323.

(1)

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 30
DATE 3-17-97
my name HB 323

Mr. Chairman, members of the committee, for the record my name is Geri.

I have come to ask you to support of HB 323. The reason I have come is because I was gay. I can stand before you and confidently state **Homosexuality is a choice**, distorts the family unit, and is immoral. A practicing lesbian of 20 years, I lived and experienced the outward struggles, hurts, and pains, longing to fit in, to be loved, to love, and the inner battles. I also held the beliefs that 1) I was born that way and 2) I could not change who I was.

Homosexuals hear these two beliefs continually. These beliefs are the very foundation supporting and confirming the gay lifestyle. Many gays will also use scripture to find peace concerning their lifestyle. I did. After awhile one believes them to be truth. Any doubt or uneasiness one might have felt seems to disappear. In actuality, it is merely quieted to reappear as a feeling of *something not being quite right.*

About four years ago I looked seriously at these beliefs. I came to an undeniable conclusion. ***I WAS NOT BORN HOMOSEXUAL.*** I attribute this conclusion to there being no Homosexuality anywhere in my family history which would be anticipated if Homosexuality was ~~genecological~~ GENETIC or a family trait. That left me realizing **this lifestyle is not a matter of birth *BUT OF CHOICE.*** Therefore, I could change. That is exactly what I did. This change from Homosexuality to Heterosexuality involved understanding manhood and womanhood as God designed it.

When I choose to renew my thinking an inward and outward change took place. It was then I realized how false the happiness, joy, peace, contentment, and fulfillment was in my life. Love was short lived and shallow. It didn't take me long to see how these beliefs, these lies had stripped me of a full and complete life as understood by the heterosexuals.

Being free of these lies, has enabled the woman I was born to be to blossom. I can not tell you why I or anyone else chooses the gay lifestyle. But I can say this, ***IT IS A MATTER OF CHOICE!*** Many are afraid to change. Others don't want to change. Whatever the reason, the Homosexual wants you to believe they were born this way and therefore, have no choice. Because of this, they believe you ought to grant them the same marital rights given to Heterosexuals. No matter how one views *this issue*, it *is morally wrong*.

In all the years I practised Homosexuality, I never found lasting happiness, joy, peace contentment, love, or fulfillment. My biggest struggle was - *IF* Homosexuality was *RIGHT* - *IF* I was *BORN* this way, then *WHY could I not find* these things - *WHY* did there seem to be *something not quite right*. I wanted people to accept me, to love me, while I was living a life of immorality. It really didn't matter how many people accepted me or loved me, something always felt wrong. I began asking my friends if they struggled with this feeling. Many admitted they struggled with the "*something not being quite right*" feeling. Their commonly expressed solution was to run the government by getting legislation on the books condoning Homosexuality as acceptable and normal. THEN THEY WOULD HAVE **THEIR FREEDOM, THEIR JUSTICE, AND THEIR PURSUIT OF HAPPINESS!**

The Homosexual says: I am born this way! I have yet to read or hear of any research supporting this belief. I also am not aware of any research supporting Homosexuality as a family trait or relating to ~~genealogical findings~~ GENETICS.

The Homosexual says: I can't change. God made me this way! I did! And if I did, they can. Homosexual is a name given to them because of what they do. It is not who they are. God made MALE and FEMALE! He did not make one Homosexual, another Murderer, and another Alcoholic.!

The Homosexual says: I am entitled to my rights! They are. The same rights you and I have. These rights are because they are citizens of the United States, not because they are gay! They want same rights but under different rules and guidelines. In essence, they want special rights to meet their lifestyle.

Homosexuals, for the most part, are good upstanding citizens apart from the act of Homosexuality. The act is separate from the person. They are people who, in search for happiness, joy,

peace, contentment, love, and fulfillment, have choosen, for whatever reason, Homosexuality. This choice, I found, does not and can not but superficially meet those needs. Others I have talked to or heard their testimony of change say the same thing.

The Homosexual wants all of us, including our children, to embrace this ~~immorality~~ LIFE and accept it as ~~morally correct~~. NORMAL. Pursuading you to accept this lifestyle as ~~morally correct~~ NORMAL behavior, frees them to live freely and openly thereby influencing, affecting, educating, and promoting Homosexuality to our children with all of its lies. The affects of accepting this as a normal lifestyle is seen throughtout this country within our school system.

There is a Gay Teachers Coalition whose main purpose is to drive out homophobia from our schools.

There are High Schools where text books include: "One Teenager in Ten" claiming Homosexuals make up 10% of our population. It's much less than that. And, "Teaching Gay Sex in Schools."

New York has its own Gay High School, Harvey Milk School, where the curriculum includes teaching students ways of having sex and "Love Making" seminars. They advertise with posters designed to influence and encourage young people who may think they have homosexual tendencies.

The elementary schools are being approached with the "Prohomosexual Children of the Rainbow Curriculum." The curriculum is Prosodomy teaching sodomy is O.K. and virginity is wierd. Homosexuality is just another kind of love which is acceptable and normal. It requires teachers to affirm these statements many times throughout the day. Books include:

1) "How Would You Feel if Your Dad was Gay"
2) "Heather has Two Mommies"
3) "A Kids First Book About Sex"
4) "Daddy's Roommate"
5) "Gloria Goes to Gay Pride"

These books are used as early as 1st Grade. This Curriculum is

reaching elementary schools all across this country. MONTANA ~~their own~~ High Schools have begun accepting Homosexuality as an acceptable lifestyle. Sexual Orientation Groups openly and freely meet in the schools. They promote their groups through pamphlets enticing students to find themselves sexually (as if they are lost). LAMBDA, a nationwide organization, is the Homosexual influence at the college level in Montana.

The Homosexual Agenda didn't start and won't stop with HB-323. Their agenda includes our children. The result - deteriation of our youth in health and well-being. The American Medical Association wrote in 1990: The Homosexual Youth are 23% more likely to contract a Sexual Transmitted Disease than Heterosexual Youths. The time to act is now.

The time has come when right is seen as wrong and wrong is seen as right. **The Homosexual has chosen this lifestyle**. Now they want you to accept their choice and view their immoral behavior as morally acceptable and normal. ~~[illegible]~~?

By passing HB-323, you will:

1) Maintain the moral standards which ruled Homosexuality as illegal, giving us hope for the future.
2) Uphold the sanctity of the family.

and 3) Be protecting our children from unhealthy behavioral relationships.

~~So I ask you to make a stand for moral values we have long ignored and uphold the dignity of the people in this state.~~

PLEASE VOTE YES FOR THE PASSING OF HB-323.

Mr Chairman, Members of The Committee, I would be happy to answer any Questions you might have.

David Tschida
224 Farview Drive
Kalispell, MT 59901

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 3-17-97
BILL NO. HB 323

March 17, 1997

HB 323
Marriage Between Persons of the Same Sex

Senator Bruce Cridten
Senate Judiciary Committee
Capitol Hill
Helena, MT 59620

Honorable Bruce Cridten and members of the Judiciary Committee:

A new political heresy has emerged; it is called sexual freedom or sexual privacy between the same sex. It is also called love for ones partner regardless of the same sex.

HB 323 puts marriage in its right perspective; the natural order whence it was created.

Any senator who ignores this bill and claims the State can not legislate morality is badly mistaken. Most bills have some moral bases. Marriage between persons of the same sex is simply immoral. There is no other way to put it. Most civilized societies throughout the ages endorsed only those marriages between the opposite sex. Those that did not, fell and were destroyed. Our State is not exempt from any wrath. The State under God has the responsibility to enact laws that counteract corruption and that threatens her common good.

To vote against this bill is to turn our back on morality and justice; to vote for it is to vote for State justice ratified by our Creator.

Respectfully,

David Tschida

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 21a
DATE 3-17-97
BILL NO. HB 323

Charles J. Lorentzen
418 th St. East
Kalispell, MT 59901

The Honorable Bruce Crippen
Capitol Station
Helena, MT 59620 RE: HB 323 March 17, 1997

Chairman Crippen and Members of the Senate Judiciary Committee,

I strongly urge you to pass HB 323, prohibiting a marriage between persons of the same sex. My reasons are grouped into the following 5 categories: 1) Biblical, 2) Public health, 3) Negative example to minors/students, 4) Declining moral standards, 5) Increased costs to people and businesses.

The Bible, in many places, says homosexuality is an abominable sin. Three references are: Leviticus 20:13,"If a man also lie with mankind, as he lieth with a woman, both of them have committed an abomination: they shall surely be put to death; their blood shall be upon them.", 1 Corinthians 6:9..."don't fool yourselves. Those who live immoral lives, who are idol worshipers, adulterers, or homosexuals, will have no share in his kingdom", and 1 Corinthians 6:13..."sexual sin is never right: our bodies were not made for that, but for the LORD." I have attached a copy of other randomly gathered verses on the," homosexual", subject, (attachment A). It is good to base public marriage policy in Montana on solid, convincing Biblical truth. The homosexual practice of same sex marriage is Bibically wrong. Many more Bible verses apply.

Public health is adversly affected by same sex marriages by increasing the probability of AIDS cases in Montana, because studies show parallels between AIDS and homosexuality. Other sexually transmitted diseases occur at greater rates in this part of our population as well, increasing public health care costs. We don't need to encourage this deviant behavior, increasing AIDS, that many people world wide have described as an epidemic.

The deplorable state of affairs in education will only get worse if we continue our silence on this prohibition. What message do we want to give students in the near future when the teachers model homosexuality? What criteria do we use in school decipline standards if parents ignore clear behavior standards given by God our creator; or are you convinced we are only glorified monkeys, capable of homosexualizing our way to a high road of moral excellence? We must send a clear message to young people by passing this bill into law.

Moral standards will be lowered drastically if we allow these unnatural unions. Sins ignored will eventually multiply and contaminate all our efforts to curb depraved activities. Loose morals are destructive to families, and families must be protected by every responsible legislative vote. Morals are declining, as evidenced by the fact that we have come to the point of needing this law. Let's avoid lowering them further.

Same sex marriages will result in a majority of people forced into unnatural situations in housing rental, for instance, where going to court is preferrable to accepting homosexual tennants. The attitude of "just get used to it," is not enough to force compliance when gross violations of God's standards are involved. Homosexual unions are even rejected

within a large percentage of extended families, let alone the general commercial public. Society will receive same sex marriages with costly turbulance in all areas of education, because parents know this lifestyle is not good for their children to learn. I will personally tell you that no homosexual will teach my son or live on my property, no matter what the cost. Another major cost to Montana will be the decision by small businesses to refuse to hire people in same sex marriages, even if it would mean going out of business. The atmosphere conducive to small business success is very fragil given the best of circumstances, but if it would mean compromise on this point, an even greater number would discontinue operating. You could not force me to hire an alcoholic, or a thief or a compulsive lier either, for the same reasons of principle.

Well, these reasons are adequate to communicate my strong support for HB 323. I regret to admit Montana has sunk so low that we even have to consider including this provision in our law, but we have. As you listen to the pleas of those who oppose this bill, arguing to ignor sin, and threatening lawsuits, you will do well to remember there is GOD in heaven, and "The fear of the LORD is the beginning of knowledge: but fools despise wisdom and instruction." Proverbs 1:7 It would be totally foolish to ignor God's clear instruction concerning this matter. Please vote for HB 323.

Sincerely,

Charles J. Lorentzen

Charles J. Lorentzen

HOMOSEXUALITY

LEV 20:13 IF A MAN ALSO LIE WITH MANKIND, AS HE LIETH WITH A WOMAN, BOTH OF THEM HAVE COMMITTED AN ABOMINATION: THEY SHALL SURELY BE PUT TO DEATH; THEIR BLOOD SHALL BE UPON THEM.

DEUT 23:17 THERE SHALL BE NO WHORE OF THE DAUGHTERS OF ISRAEL, NOR A SODOMITE OF THE SONS OF ISRAEL.

I KG 15:11-12 AND ASA DID THAT WHICH WAS RIGHT IN THE EYES OF THE LORD, AS DAVID HIS FATHER. 12) AND HE TOOK AWAY THE SODOMITES OUT OF THE LAND, AND REMOVED ALL THE IDOLS THAT HIS FATHERS HAD MADE.

I KG 22:41-46 AND JEHOSHAPHAT THE SON OF ASA BEGAN TO REIGN OVER JUDAH IN THE FOURTH YEAR OF AHAB KING OF ISRAEL. 42) JEHOSHAPHAT WAS THIRTY AND FIVE YEARS OLD WHEN HE BEGAN TO REIGN; AND HE REIGNED TWENTY AND FIVE YEARS IN JERUSALEM. AND HIS MOTHER'S NAME WAS AZUBAH THE DAUGHTER OF SHILHI. 43) AND HE WALKED IN ALL THE WAYS OF ASA HIS FATHER; HE TURNED NOT ASIDE FROM IT, DOING THAT WHICH WAS RIGHT IN THE EYES OF THE LORD: NEVERTHELESS THE HIGH PLACES WERE NOT TAKEN AWAY; FOR THE PEOPLE OFFERED AND BURNT INCENSE YET IN THE HIGH PLACES. 44) AND JEHOSHAPHAT MADE PEACE WITH THE KING OF ISRAEL. 45) NOW THE REST OF THE ACTS OF JEHOSHAPHAT, AND HIS MIGHT THAT HE SHEWED, AND HOW HE WARRED, ARE THEY NOT WRITTEN IN THE BOOK OF THE CHRONICLES OF THE KINGS OF JUDAH? 46) AND THE REMNANT OF THE SODOMITES, WHICH REMAINED IN THE DAYS OF HIS FATHER ASA, HE TOOK OUT OF THE LAND.

II KG 22:1-2 & 23:7 JOSIAH WAS EIGHT YEARS OLD WHEN HE BEGAN TO REIGN, AND HE REIGNED THIRTY AND ONE YEARS IN JERUSALEM. AND HIS MOTHER'S NAME WAS JEDIDAH, THE DAUGHTER OF ADAIAH OF BOSCATH. 2) AND HE DID THAT WHICH WAS RIGHT IN THE SIGHT OF THE LORD, AND WALKED IN ALL THE WAY OF DAVID HIS FATHER, AND TURNED NOT ASIDE TO THE RIGHT HAND OR TO THE LEFT. & 23:7) AND HE BRAKE DOWN THE HOUSES OF THE SODOMITES, THAT WERE BY THE HOUSE OF THE LORD, WHERE THE WOMEN WOVE HANGINGS FOR THE GROVE.

DEUT 22:5 A WOMAN SHALL NOT WEAR ANYTHING THAT PERTAINS TO A MAN, NOR SHALL A MAN PUT ON A WOMAN'S GARMENT; FOR WHOEVER DOES THESE THINGS IS AN ABOMINATION TO THE LORD YOUR GOD.

JERM 23:14 I HAVE SEEN ALSO IN THE PROPHETS OF JERUSALEM AN HORRIBLE THING: THEY COMMIT ADULTERY, AND WALK IN LIES: THEY STRENGTHEN ALSO THE HANDS OF EVILDOERS, THAT NONE DOTH RETURN FROM HIS WICKEDNESS: THEY ARE ALL OF THEM UNTO ME AS SODOM, AND THE INHABITANTS THEREOF AS GOMORAH.

I TIM 1:8-10 BUT WE KNOW THAT THE LAW IS GOOD, IF A MAN USE IT LAWFULLY; 9) KNOWING THIS, THAT THE LAW IS NOT MADE FOR A RIGHTEOUS MAN, BUT FOR THE LAWLESS AND DISOBEDIENT, FOR THE UNGODLY AND FOR SINNERS, FOR UNHOLY AND PROFANE, FOR MURDERERS OF FATHERS AND MURDERERS OF MOTHERS, FOR MANSLAYERS, 10) FOR WHOREMONGERS, FOR THEM THAT DEFILE THEMSELVES WITH MANKIND, FOR MENSTEALERS, FOR LIARS, FOR PERJURED PERSONS, AND IF THERE BE ANY OTHER THING THAT IS CONTRARY TO SOUND DOCTRINE;

LEV 18:22 THRU 30 YOU SHALL NOT LIE WITH A MALE AS ONE LIES WITH A FEMALE; IT IS AN ABOMINATION. 23) ALSO YOU SHALL NOT HAVE INTERCOURSE WITH ANY ANIMAL TO BE DEFILED WITH IT, NOR SHALL ANY WOMAN STAND BEFORE AN ANIMAL TO MATE WITH IT; IT IS A PERVERSION. 24) DO NOT DEFILE YOURSELVES BY ANY OF THESE THINGS; FOR BY ALL THESE THE NATIONS WHICH I AM CASTING OUT BEFORE YOU HAVE BECOME DEFILED. 25) FOR THE LAND HAS BECOME DEFILED, THEREFORE I HAVE VISITED ITS PUNISHMENT UPON IT, SO THE LAND HAS SPEWED OUT ITS INHABITANTS. 26) BUT AS FOR YOU, YOU ARE TO KEEP MY STATUTES AND MY JUDGEMENTS, AND SHALL NOT DO ANY OF THESE ABOMINATIONS, NEITHER THE NATIVE, NOR THE ALIEN WHO SOJOURNS AMONG YOU. 27) (FOR THE MEN OF THE LAND WHO HAVE BEEN BEFORE YOU HAVE DONE ALL THESE ABOMINATIONS, AND THE LAND HAS BECOME DEFILED); 28) SO THAT THE LAND MAY NOT SPEW YOU OUT, SHOULD YOU DEFILE IT, AS IT HAS SPEWED OUT THE NATION WHICH HAS BEEN BEFORE YOU. 29) FOR WHOEVER DOES ANY OF THESE ABOMINATIONS, THOSE PERSONS WHO DO SO SHALL BE CUT OFF FROM AMONG THEIR PEOPLE. 30) THUS YOU ARE TO KEEP MY CHARGE, THAT YOU DO NOT PRACTICE ANY OF THE ABOMINABLE CUSTOMS WHICH HAVE BEEN PRACTICED BEFORE YOU, SO AS NOT TO DEFILE YOURSELVES WITH THEM, I AM THE LORD YOUR GOD.

PS 12:8 THE WICKED STRUT ABOUT ON EVERY SIDE, WHEN VILENESS IS EXALTED AMONG THE SONS OF MEN.

ROM 1:22-28 PROFESSING TO BE WISE, THEY BECAME FOOLS, 23) AND EXCHANGED THE GLORY OF THE INCORRUPTIBLE GOD FOR AN IMAGE IN THE FORM OF CORRUPTIBLE MAN AND OF BIRDS AND FOUR-FOOTED ANIMALS AND CRAWLING CREATURES. 24) THEREFORE GOD GAVE THEM OVER IN THE LUSTS OF THEIR HEARTS TO IMPURITY, THAT THEIR BODIES MIGHT BE DISHONORED AMONG THEM. 25) FOR THEY EXCHANGED THE TRUTH OF GOD FOR A LIE, AND WORSHIPED AND SERVED THE CREATURE RATHER THAN THE CREATOR, WHO IS BLESSED FOREVER. AMEN 26) FOR THIS REASON GOD GAVE THEM OVER TO DEGRADING PASSIONS; FOR THEIR WOMEN EXCHANGED THE NATURAL FUNCTION FOR THAT WHICH IS UNNATURAL, 27) AND IN THE SAME WAY ALSO MEN ABANDONED THE NATURAL FUNCTION OF THE WOMAN AND BURNED IN THEIR DESIRE TOWARD ONE ANOTHER, MEN WITH MEN COMMITTING INDECENT ACTS AND RECEIVING IN THEIR OWN PERSONS THE DUE PENALTY OF THEIR ERROR. 28) AND JUST AS THEY DID NOT SEE FIT TO ACKNOWLEDGE GOD ANY LONGER, GOD GAVE THEM OVER TO A DEPRAVED MIND, TO DO THOSE THINGS WHICH ARE NOT PROPER, ...32) AND, AND 32 ALTHOUGH THEY KNOW THE ORDINANCE OF GOD, THAT THOSE WHO PRACTICE SUCH THINGS ARE WORTHY OF DEATH, THEY NOT ONLY DO THE SAME, BUT ALSO GIVE HEARTY APPROVAL TO THOSE WHO PRACTICE THEM.

JUD 19:22-24 WHILE THEY WERE MAKING MERRY, BEHOLD, THE MEN OF THE CITY, CERTAIN WORTHLESS FELLOWS, SURROUNDED THE HOUSE, POUNDING THE DOOR; AND THEY SPOKE TO THE OWNER OF THE HOUSE, THE OLD MAN, SAYING, "BRING OUT THE MAN WHO CAME INTO YOUR HOUSE THAT WE MAY HAVE RELATIONS WITH HIM." 23) THEN THE MAN, THE OWNER OF THE HOUSE, WENT OUT TO THEM AND SAID TO THEM, "NO, MY FELLOWS, PLEASE DO NOT ACT SO WICKEDLY; SINCE THIS MAN HAS COME INTO MY HOUSE, DO NOT COMMIT THIS ACT OF FOLLY. 24) HERE IS MY VIRGIN DAUGHTER AND HIS CONCUBINE. PLEASE LET ME BRING THEM OUT THAT YOU MAY RAVISH THEM AND DO TO THEM WHATEVER YOU WISH. BUT DO NOT COMMIT SUCH AN ACT OF FOLLY AGAINST THIS MAN.

JUD 20:3 NOW THE SONS OF BENJAMIN HEARD THAT THE SONS OF ISRAEL HAD GONE UP TO MIZPAH. AND THE SONS OF ISRAEL SAID, "TELL US, HOW DID THIS WICKEDNESS TAKE PLACE?

(2) HOMOSEXUALITY (CONTINUED)

I COR 6:9 ... DON'T FOOL YOURSELVES. THOSE WHO LIVE IMMORAL LIVES, WHO ARE IDOL WORSHIPERS, ADULTERERS, OR HOMOSEXUALS - WILL HAVE NO SHARE IN HIS KINGDOM.

I COR 6:13 ... SEXUAL SIN IS NEVER RIGHT: OUR BODIES WERE NOT MADE FOR THAT, BUT FOR THE LORD...

I COR 6:18 THAT IS WHY I SAY TO RUN FROM SEX SIN. NO OTHER SIN AFFECTS THE BODY AS THIS ONE DOES. WHEN YOU SIN THIS SIN IT IS AGAINST YOUR OWN BODY.

GEN 13:13: NOW THE MEN OF SODOM WERE WICKED EXCEEDINGLY AND SINNERS AGAINST THE LORD.

I THES 4:3-7 FOR THIS IS THE WILL OF GOD, YOUR SANCTIFICATION; THAT IS, THAT YOU ABSTAIN FROM SEXUAL IMMORALITY; 4) THAT EACH OF YOU KNOW HOW TO POSSESS HIS OWN VESSEL IN SANCTIFICATION AND HONOR, 5) NOT IN LUSTFUL PASSION, LIKE THE GENTILES WHO DO NOT KNOW GOD; 6) AND THAT NO MAN TRANSGRESS AND DEFRAUD HIS BROTHER IN THE MATTER BECAUSE THE LORD IS THE AVENGER IN ALL THESE THINGS, JUST AS WE ALSO TOLD YOU BEFORE AND SOLEMNLY WARNED YOU. 7) FOR GOD HAS NOT CALLED US FOR THE PURPOSE OF IMPURITY, BUT IN SANCTIFICATION.

(ATTACHMENT A)

STATEMENT: CHARLES J. LORENTZEN MARCH 17, 1997

SENATE JUDICIARY COMMITTEE HEARING

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 32
DATE 3-17-97
BILL NO. HB323

February 12, 1997

Mr. Chairman, members of the House Judiciary committee:

For the record, my name is Laurie Koutnik, executive director of Christian Coalition of Montana, our state largest family advocacy organization, representing 40,000 households across our state. I rise in support of this measure to prohibit marriage between persons of the same sex.

Last year, U.S. Congress passed the Defense of Marriage Act and President Clinton signed it into law. DOMA allows states to pass laws to ban recognition of same sex marriages performed in other states.

A poll conducted just prior to the session, reflected the sentiments of Montana's on this topic. Over a majority of those questioned wanted the 1997 Legislature to enact a law outlawing homosexuals from getting married.

There are good reasons they want such a ban. Allowing same sex marriages would have enormous implications in local, state, and federal law and regulations and in public policy. This says nothing to the tens of thousands of court suits that would occur. Social Security, inheritance laws, the Uniform code of Military Justice, and a mind boggling number of family and spousal benefits laws, ordinances and regulations would be affected by a redefinition of marriage.

Same sex marriage is a deliberate attack on the integrity of the traditional family, which has been the indispensable bedrock of Western civilization. Not to mention an assault on the deeply held religious beliefs of the overwhelming majority of the voters you represent.

There is no valid rational basis for setting aside centuries of legal precedent, religious teachings and good social order for the tearing down of the sacred institution of marriage. To do so would promote the destruction of the traditional family unit, the foundation of society. No society has ever survived when the family unit is destroyed. Therefor, government has a vested interest in protecting the family unit.

Should you allow the alien idea of homosexual marriages, which is a major plank in the gay agenda, then there remains no rational basis to prevent marriage for polygamists, pedophiles, and minors, or other conceivable forms of marriage.

Currently, the U.S. Supreme Court rulings limit the scope of the right to privacy contained in the Fourteenth Amendment to the zone of the marital relationship and matters of family and procreation. The Supreme Court has consistently held that fundamental right to privacy emanates from the marital relationship, and is limited to such fundamental rights as child rearing and education, intimate family relations within marriage and procreation.

Justice Douglas identified the institution of marriage in *Griswold v. Connecticut, 1965*, as a "relationship lying within the zone of privacy created by several fundamental constitutional guarantees." The rock on which Justice Douglas erected the right to privacy was clearly the

institution of heterosexual marriage.

Uphold this worthy institution and it will uphold and serve the needs of our society.

Please pass HB 323

Same-Sex 'Marriage'

"For the gay and lesbian community, the issue of same-sex marriage is larger than simply the desire to marry legally...

"...It's the final tool with which to dismantle all sodomy statutes, get education about homosexuality and AIDS into public schools, and, in short, usher in a sea change in how society views and treats us. Our gay leaders must acknowledge that gay marriage is just as radical and transformative as the religious right contends it is."

—Michaelangelo Signorile in the May 1996 issue of Out magazine

EX

Montana Catholic Conference

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 33
DATE 3-17-97
SB/HB HB 323

17
March ~~14~~, 1997

Senator Bruce Crippen, Chair
Senate Judiciary Committee

Dear Senator Crippen and Committee Members:

RE: HB-323-Prohibit Same Sex Marriage

The Montana Catholic Conference is generally in support of HB-323.

The intention of HB-323 is to clarify that the State of Montana does not legally define such "same sex" partnership as a marriage and proposes to make clear that such an arrangement is prohibited and will not be recognized as a valid marriage in this state. Why should we do this?

Our reflections for the debate:

No government to date has redefined the institution of marriage. None should. Marriage between a man and a woman is a fundamental institution of civil society. It is the basis for healthy individuals, a stable community and a responsible society. The State chooses to honor particular contracts, but it has given special attention and privilege to the marriage contract because marriage between a man and a woman is inherently natural, predates all civil recognition, and is essential to our social well being. Because this formal marriage commitment is so essential to our biological and social future, it has been and continues to be preserved, protected, and promoted by the laws of the State.

The relationship between a woman and a man is complementary. The natures of woman and man, equal yet unique, complement one another, and in marital love humanize and civilize each other and society. No same-sex relationship can realize the genuine potential of a relationship between a man and a woman. Nor should society expect it to do so. Because of the obvious complementary natures of a woman and man, society reaps many benefits.

A committed, faithful, life-giving, and lifelong relationship between a man and a woman is the best environment for children. All the research proves this. Despite the heroic efforts of single parents raising children, the normative, best experience for healthy children is the stable two- parent family, which provides the love and example of a woman and a man. The marriage law and the natural law connect sex, commitment, and children. We hold parents responsible for supporting and educating their children, both within marriage and even if the marriage breaks down. If the law were to redefine marriage and send a message that marriage has no relationship to sex, commitment, or children, it will only add to the current problems in our society, send confusing messages and perhaps undermine the healthy relationships that exist.

a program
Tel. (406) 442-5761 P.O. BOX 1708 25 S. EWING HELENA, MONTANA 59624
CARE & SHARE

Others will argue that marriage is simply a contract between autonomous individuals and that individual privacy rights outweigh all other societal claims. Still others will suggest that marriage is only a committed partnership and the society should honor that commitment by defining it as marriage. Certainly these are important issues for society; honoring contracts and fostering commitment. But these are not reasons to redefine marriage. Society depends on marriage between a man and a woman in order to survive. Our law should continue to define marriage between a man and a woman. That is normative and should remain so.

Our society has a tradition of protecting individual rights and respecting the pluralism reflected in our communities. We respect the private choices of others, even if we disagree with them. We accord each individual equal rights and dignity before the law. We know the difference between human rights and civil rights. We know the difference between males and females. We know the difference between tolerance and endorsement. We know the difference between friendship and marriage. We must act accordingly.

There are other arguments which could be presented. Some of us would appeal to religious or moral beliefs regarding human sexuality, human sexual behavior and our relationships to each other and to God. They are strong beliefs and they inform our arguments. But in our current milieu they are sometimes dismissed as irrelevant or prejudiced. That is truly unfortunate.

Perhaps, the best we can do at this point is to ask all of us to move the discussion beyond arguing privacy, individuals rights, or religious beliefs. Perhaps we could find common ground by focusing instead on the common good...the well being of our children, the importance of family and our social structures.

This is a difficult and, at times, contentious debate. We pledge our honesty and civility to the effort. Thank you for your dedicated service.

Sincerely,

Sharon Hoff
Executive Director
Montana Catholic Conference

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 34
DATE 3-17-97
BILL NO. HB323

HB 323
March 17, 1997

Mr. Chairman, members of the committee, for the record my name is Arlette Randash, a lobbyist for Eagle Forum. At the onset, permit me to say without qualification, no one should confuse our support of HB 323 to a diminishment of commitment held for the basic respect and dignity due all people including homosexuals. Having said that, we support HB 323 because Montana has a compelling interest in prohibiting the marriages of persons of the same sex in order to safeguard the legal status given traditional marriages wherein one man and one woman are united as husband and wife. Why?

Marriage is the legal union of one man and one woman joined as husband and wife in an intimate, faithful, exclusive, and lifelong partnership of love. Marriage exists for two purposes: the mutual love and support of the spouses and for the procreation and education of children. The institution of marriage is intrinsically and vitally connected with the continuation of the human race, the total development of the human person, and is the animating principle undergirding society's very existence and development. Therefore, it must be uniquely preserved, protected, and promoted.

This union was established with its own proper laws. The physical world is governed by laws. If we defy gravity we expect certain results. So too, there is a moral law governing behavior which is permanent and immutable. A law which is not merely a social construct decided upon by man. We have ample testimony in regards to breaking moral law as we have redefined marriage and its purpose since the early 1970's. By changing the definition of when marriage ends through no-fault divorce, divorce has risen by 40% and half of all children born today will spend part of their formative years with only one of their parents. Moreover, in 1973 when the Supreme Court cheapened the value of human life by ushering in abortion on demand, it cheapened marriage as well. If one of marriage's purposes is for the sake of children, and if children are disposable, doesn't it follow that marriage is disposable as well? Once we violated the moral law evidenced in stringent taboos against premarital sex, out-of- wedlock births rose from 2% in 1940 to 35% in 1997.

HB 323 provides you with the opportunity to prohibit the further erosion of the marriage and the family. The opponents of this bill will sing their siren song of misguided compassion and rights-but keep in mind-marriage won't tame the passions of homosexual liaisons. Granting same-sex marriage moral equivalency with heterosexual marriage will escalate the deleterious effects already inflicted upon marriage and the family, the results from which our nation may never recover.

Recognizing that social impact, to the best of my knowledge, 30 states are deliberating similar legislation and Utah and South Dakota have passed same-sex marriage prohibitions. 16 states have passed legislation that denies recognition of same-sex marriages from other states. (Alaska, Arizona, Delaware, Georgia, Idaho, Illinois, Kansas, Missouri, Michigan, North Carolina, Oklahoma, Pennsylvania, south Carolina, South Dakota, Tennessee, and Utah.)

Please keep in mind that Montana's families would prefer to avoid this debate. Yet, we will not shrink from defending the basic morality that has been in existence for millenniums. It is homosexual activists who are pushing the recognition of same-sex marriages as part of an overall agenda to change society's basic elements. Elements as basic as: the implementation of homosexual, bisexual, and transgendered curriculum at all levels of education; custody, adoption, and foster care rights for homosexuals, lesbians, and transgendered people; insurance and health benefits; alimony and child support; property inheritance; and sex-change operations under health care plans, etc.

Furthermore, if we fail to protect the traditional definition of marriage between a man and a woman based on the inescapable fact that only a man and a woman can begat a child, on what grounds could we confine marriage to "couples?" Why couldn't it be between two or three people, polygamy? Between father and daughter, incest? Or between man and beast, bestiality? By lowering the age of consent for homosexual and heterosexual sex would molestation be defined away? Because the ground rules for defining marriage would be eroded, such consideration would no longer be distant possibilities but realities. Furthermore, opponents will tell you the American Psychiatric Association no longer considers homosexuality as a disorder. In 1994 the APA also said pedophilia is not a disorder either unless it causes the pedophile "clinically significant distress or impairment in social, occupational, or other important areas of functioning"!

Opponents will submit that same-sex marriage is their right. Bear in mind in 1967 when the U.S. Supreme Court in *Loving v. Virginia* struck down laws preventing marriage between people of different races as violating the equal protection and due process clauses of the Fourteenth Amendment, the court never came close to redefining the institution of marriage itself, which is what would occur for same-sex relationships to be accorded marital statues. To equate benign, nonbehavioral characteristics such as skin color with acts of behavior finds no support within the law.

Furthermore, same sex marriages will threaten the religious freedoms of those who will not perform the ceremonies or recognize them. Even if religious exemptions were granted law carries the potential use of force against those who disagree. Christian book stores, radio and TV stations and other businesses owned by religious people would find themselves subject to state enforcement in the near future.

In closing, support of HB 323 is clearly necessary for the protection and preservation of the family and the institution of traditional marriage. Therefore, please recommend a "Do Pass" to HB 323.

SENATE JUDICIARY COMMITTEE 3/17/97
EXHIBIT NO. 35
DATE 3-17-97
SB HB 323

Mr. Chairman and members of the Senate Judiciary Committee:

My name is Fern Hart and I am here to speak in opposition to House Bill 323.

In the first place, this bill proposes unnecessary legislation to further isolate and villify and already beleagured group of people.

If I may, I would like to use my time to tell a brief story. I am a member of the University Congregational Church in Missoula. About ten years ago, we began a search for a new minister. Our committee followed the prescribed process: advertising, church profile and unique characteristics. We received applicants who were interviewed. Our very ordinary but dedicated search committee came back to the congregation with the choice of a lesbian.

I remember sitting in the choir and watching the congregation and finally weeping. It was clear that we could not accept the recommendation. We knew we were being torn apart both from one another and from within ourselves. We rationally listed all the reasons why a lesbian minister would not meet our particular needs but we knew we were failing our faith. We ~~were~~ are all God's people.

So we chose another candidate; however, we knew we had to examine our rejection of this woman who was fully qualified to be our leader. We formed a committee to examine ourselves and our understanding of homosexuality. There were many painful and searching meetings..lasting until 1993 when we became an OPEN AND AFFIRMING CONGREGATION. THis simply means we will not discriminate on the basis of race, creed, gender, color, handicap or sexual orientation.

There have been dire predictions that our church would become a congregation of lesbians and gays..that we would be embarrassed by far out behavior and that we would lose our long time members and especially financial support. We have survived. Our church school class is the largest in ten years. We have more young families than I have seen in twenty years.

One last result, we have baptised several lesbains and gay men. One couple, lesbians, have been remarkable in their committment. Nancy was chair of the Building and Finance Board; Dee, her partner was leader of our crew who cook at Poverello on Sunday. Poverello is the Catholic project for the homeless. And Bernadette who was patient with us on our first committee, who asked "Is it true that God doesn't love me?" And finally, a remarkable young gay man who lead a workshop on church particiaption. There are others, I'm sure but I don't know them as homosexuals since it doesn't really matter.

I grew up in the South. I was at choir practice when Martin Luther King Jr. was killed. I remember our fear of change then. I believe it is the same kind of fear we feel about anyone different. If we cant be tolerant, how can we hope for tolerance toward ourselves?

Fern Hart
Missoula, Mt

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 36
DATE 3-17-97
BILL NO. HB323

MEMO

TO: Senate ~~House~~ Judiciary Committee

ON: House Bill 323

DATE: March 17 ~~February 12~~, 1997

Dear Senate ~~House~~ Judiciary Committee Member:

Our names are Lance Kaldor and Bruce Christopherson and we would like to express our opposition of House Bill 323, prohibiting homosexuals and lesbians from marriage.

We are two Montana citizens in our thirties. We hold respectable jobs in the Great Falls community. We do not condone child molestation, rape or any other unmoralistic crime. We have values such as fidelity, integrity, respect and trust to name a few.

On September 2, 1995 we stood together before our parents, families, co-workers, bosses, and peers, promising to love, honor and cherish each other for all eternity. In the hours that followed we rejoiced with all the people there. All one hundred and ten total, gays, lesbians, and heterosexual alike. Sound almost like yours or your child's wedding.

Since then we cook dinner, argue over the remote control and discuss what to do about the check books. We paint the house, landscape, and change the oil in our car on the weekends. All sounds very familiar doesn't it.

So you can see why we oppose House Bill 323. It's unfair, it keeps gays and lesbians segregated just as the government has done to the immigrants and African-Americans through the years. It infringes on our constitutional rights to life, liberty, and the pursuit of happiness, yes, our happiness. This bill does not keep up with the needs of society today. Traditional family values have changed, because if those values were the same as two centuries ago, the women of this committee would be at home with the children making dinner for their man and indeed would not have the right to vote.

So we ask that you vote against House Bill 232, so that the evolution of America continues. If you choose to pass this bill, do not be glad. We are not going to go away, we will still be here moving among you, collecting double credit limits. A $1,300.00 tax deduction over the married heterosexuals, taking money from the government because they couldn't accept us. Someday we will be recognized. The history of the African-American teaches us that. Can't history start now?

Sincerely,

Lance Kaldor

Bruce Christopherson

EXHIBIT NO. 37
DATE 3-17-97
BILL NO. HB 323

Rev. David Orendorff
Helena, Montana
of St. Paul's United Methodist Church

Testimony before the Senate Judiciary Committee
In opposition to HB 323 Prohibiting Same-Sex Marriage
Introduced by Rep. Boharski (R-Kalispell)

A Texas columnist tells the story of two little boys whose mother was tired of their noisy ways in the house and sent them out to the hen house to check the chickens for chicken snakes. The boys checked the bottom roost and it was clear. As they checked the upper roost, just about face high, they found themselves nose to nose with a chicken snake. In sudden panic they nearly destroyed the chicken house door in their flight to escape. Crashing into the house they told their mother of the snake.

"Now boys," she said, "You know a chicken snake won't hurt you."

"Yes Mam, " a son replied, "But some things will scare you so bad that you hurt yourself."

Homosexuality seems to be for us one of those things that scares us so bad that we hurt ourselves.

The United Methodist Church has a very long history of being firmly and publicly supportive of full rights for homosexual persons. The Book of Discipline of the United Methodist Church, paragraph 71G, states:

> Certain basic human rights and civil liberties are due all persons. We are committed to support those rights and liberties for homosexual persons. We see a clear issue of simple justice in protecting their rightful claims where they have: shared material resources, pensions, guardian relationships, mutual powers of attorney, and other such lawful claims typically attendant to contractual relationships which involve shared contributions, responsibilities, and liabilities, and equal protection before the law. Moreover, we support efforts to stop violence and other forms of coercion against gays and lesbians.

For many years St. Paul's has been active and vocal in its support of Gay and Lesbian rights. We formed one of the earliest chapters of Parents and Friends of Lesbians and Gays (PFLAG) in Montana. We have had open classes to discuss among ourselves and with self-identified Lesbians and Gays the question of homosexuality. We have had a Lesbian woman and a Gay man assist in worship. We have several Lesbians and Gays who are members of St. Paul's or who are regular attenders and good friends of St. Paul's. Many of us have testified at legislative hearings and attended public rallies. Never have we tried to hide or minimize our commitment to be a welcoming place for all people. As our mission statement clearly states, "We welcome all people to live and grow in God's love." And to us "all' means all.

I could offer testimony on the Biblical view of same-sex relationships. I have learned both Hebrew and Greek, focused on

Biblical Interpretation during four years of Seminary, and studied the New Testament at a PhD level for two years. My conclusions are that the Bible offers no guidance in this area. If there are members of the committee who at some other time would like to discuss this with me, I gladly make myself available.

We are also called to use the minds, the ability to reason, God gave us. If by reason we mean a studied or scientific approach to homosexuality then we will find no more help in reason than we have found in scripture. Various psychological and physiological studies have produced contradictory results. Recent research into the chemistry of the brain strongly suggests that the brains of heterosexuals are somehow different than the brains of homosexuals, but the results are not yet absolutely conclusive.

Without the clear and unambiguous guidance of scripture, or reason, we are left with the guidance of our experience. This makes our decisions about homosexuality almost purely personal to our particular experience. Those of us who have friends and family who are homosexual will undoubtably have a different experience than those whose experience is different. Even within families our experiences will differ. Those of us who see the homosexual as our neighbor will strive to love our neighbor as we love ourselves.

My experience is that Gay and Lesbians are people, with all the gifts, graces and failures of being human. My primary concern is to speak for the Gay and Lesbian couples of St. Paul's who have long monogamous relationships, some of whom I have known for a decade. They are persons of Christian character who practice fidelity and compassion in their relationships. They, of course, face the same challenges heterosexual marriages face. They argue about money, children, house cleaning, etc. Some couples experience the grief of divorce. One of our couples lost a child in a tragic car accident last year. Most of our couples are committed to each other, to their families and to making life together work. Except that the relationships are same sex, they are the same as other marriages. I believe that God recognizes their love, their commitment, their efforts and their marriages. I find it cruel that the state will not.

Thank you for your time.

PRIDE!

P.O. Box 775 • Helena, MT 59624 • (406) 442-9322

e-mail pride123 @ aol.com

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 38
DATE 3-17-97
BILL NO. HB323

TO: Chairman Crippen & Members of the Senate Judiciary Committee

RE: Opposition to HB 323 - Prohibiting Same-Sex Marriages

DATE: March 17, 1997

I am Sandra Hale, Executive Director of PRIDE! - Montana's statewide organization established to secure the constitutional rights of privacy, equal protection under the law and human dignity for lesbian, bisexuals, and gay men living in our state. PRIDE! stands in strong opposition to HB 323. Once again, this is a civil rights issue at stake.

I would first like to lay to rest the unfounded claims that as a sexual minority, gays and lesbians are a community of perverts and sexual predators. The fact is that despite popular myths about homosexuals molesting young boys, pedophilia and child sexual abuse is predominantly a heterosexual problem. (Reference: Francoeur, Robt. T., Becoming a Sexual Person, MacMillan Pub. Co., 1991) (And, in fact, with the incidents of rape and child sexual molestation that I have clipped out of the newspapers in the last several months, a stronger case could be made to criminalize heterosexuality rather than homosexuality as our opponents suggest time after time!)

And, to challenge another irrational fear I have heard in previous hearings - that allowing same-sex couples to marry will lead to incest and polygamy - this is a ridiculous conclusion. The same arguments were made when the bans on interracial marriage were challenged and no such trend has happened in the structure of American families. Additionally, the recent Hawaii decision on same-sex marriages came to the same conclusion: there is no evidence to indicate that allowing same-sex couples to marry will result in increased incest and polygamy.

The point is that one's sexual preference or sexual orientation is not, in and of itself, a reflection on one's moral character. In a Montana Supreme Court case (*State v. Ford,* Oct. 17, 1996) - a special concurrent opinion written by Justices Leaphart and Treiweiler stated, "Evidence of sexual preference is not evidence of character." That is to say, my sexual orientation, whether I am gay or lesbian, will not indicate whether I am competent at my job, or if I'll be a good neighbor or always pay my rent, or a good parent. And I will also add, whether the state has a compelling interest to prohibit me a marriage license.

No other institution provides the same range of rights and responsibilities as legal, civil marriage. Those rights and responsibilities include the option to: file joint tax

over

returns, have access to joint insurance policies, secure workplace benefits and inherit automatically in the absence of a will, obtain protection for parenting, immigration and medical decision-making.

Because marriage provides the widest range of rights and responsibilities, it remains the primary legal institution with which we provide economic and financial security for our families. It is the most direct way to have our families recognized **as families.**

For gay and lesbian couples who are already parents, marriage would provide a mechanism for the non-biological parent of a child to be recognized **as a parent** by schools, government and others. For gay and lesbian couples who are looking to have children, marriage would help to facilitate the ability to serve as foster parents, and to adopt children. And I might add, the recent circuit court ruling in Hawaii in Baehr v. Miike, Judge Chang stated in his findings that gay and lesbian parents "are doing a good job" raising children and, most importantly, " the kids are turning out fine."

Marriage is also a powerful social institution. Many minorities have historically been denied the freedom to marry because their lives and relationships were not respected. The ability to marry is a profound statement of equality and respect. Equal marriage rights for gay and lesbian couples would help establish a new legal and moral standard for gay and lesbian people: **true equality.**

And quite simply, you cannot legislate what individuals will fall in love and marry. Dr. Martin Luther King, Jr. used to say when people talked about interracial marriage and the maintaining of miscegenation laws, "Races do not fall in love and get married. Individuals fall in love and get married." In closing, marriage is an important personal choice and a basic human right. The decision to get married should belong to the couple in love; ***the state and federal governments should not be dictating who can marry.***

AMERICAN
PSYCHOLOGICAL
ASSOCIATION

Answers to Your Questions About Sexual Orientation and Homosexuality

Homosexual orientation is not limited to a particular type of person. Gay men and lesbians are of all ages, cultural backgrounds, races, religions and nationalities. They work in all occupations and live in all parts of the country.

What is sexual orientation?

Sexual orientation is one of the four components of sexuality and is distinguished by an enduring emotional, romantic, sexual or affectional attraction to individuals of a particular gender. The three other components of sexuality are biological sex, gender identity (the psychological sense of being male or female) and social sex role (adherence to cultural norms for feminine and masculine behavior). Three sexual orientations are commonly recognized: *homosexual*, attraction to individuals of one's own gender; *heterosexual*, attraction to individuals of the other gender; or *bisexual*, attractions to members of either gender. Persons with a homosexual orientation are sometimes referred to as *gay* (both men and women) or as *lesbian* (women only).

Sexual orientation is different from sexual behavior because it refers to feelings and self-concept. Persons may or may not express their sexual orientation in their behaviors.

What causes a person to have a particular sexual orientation?

How a particular sexual orientation develops in any individual is not well understood by scientists. Various theories have proposed differing sources for sexual orientation, including genetic or inborn hormonal factors and life experiences during early childhood. However, many scientists share the view that sexual orientation is shaped for most people at an early age through complex interactions of biological, psychological and social factors.

Is sexual orientation a choice?

No. Sexual orientation emerges for most people in early adolescence without any prior sexual experience. And some people report trying very hard over many years to change their sexual orientation from homosexual to heterosexual with no success. For these reasons, psychologists do not consider sexual orientation for most people to be a conscious choice that can be voluntarily changed.

Is homosexuality a mental illness or emotional problem?

No. Psychologists, psychiatrists and other mental health professionals agree that homosexuality is not an illness, mental disorder or emotional problem. Much objective scientific research over the past 35 years shows us that homosexual orientation, in and of itself, is not associated with emotional or social problems.

Homosexuality was thought to be a mental illness in the past because mental health professionals and society had biased information about homosexuality since most studies only involved lesbians and gay men in therapy. When researchers examined data about gay people who were not in therapy, the idea that homosexuality was a mental illness was found to be untrue.

In 1973 the American Psychiatric Association confirmed the importance of the new research by removing the term "homosexuality" from the official manual that lists all mental and emotional disorders. In 1975 the American Psychological Association passed a resolution supporting

this action. Both associations urge all mental health professionals to help dispel the stigma of mental illness that some people still associate with homosexual orientation. Since the original declassification of homosexuality as a mental disorder, this decision has subsequently been reaffirmed by additional research findings and both associations.

Can lesbians and gay men be good parents?

Yes. Studies comparing groups of children raised by homosexual and by heterosexual parents find no developmental differences between the two groups of children in their intelligence, psychological adjustment, social adjustment, popularity with friends, development of social sex role identity or development of sexual orientation.

The APA encourages all mental health professionals to work to help persons of all sexual orientations to accept and integrate their inner feelings and to overcome their prejudices and false beliefs about one another.

Another stereotype about homosexuality is the mistaken belief that gay men have more of a tendency than heterosexual men to sexually molest children. There is no evidence indicating that homosexuals are more likely than heterosexuals to molest children.

Why do some gay men and lesbians tell people about their sexual orientation?

Because sharing that aspect of themselves with others is important to their mental health. In fact, the process of identity development for lesbians and gay men, usually called "coming out," has been found to be strongly related to psychological adjustment — the more positive the gay male or lesbian identity, the better one's mental health and the higher one's self-esteem.

Why is the "coming out" process difficult for some gays and lesbians?

Because of false stereotypes and unwarranted prejudice towards them, the process of "coming out" for lesbians and gay men can be a very challenging process which may cause emotional pain. Lesbian and gay people often feel "different" and "alone" when they first become aware of same-sex attractions. They may also fear being rejected by family, friends, co-workers and religious institutions if they do "come out."

In addition, homosexuals are frequently the targets of discrimination and violence. This threat of violence and discrimination is an obstacle to lesbian and gay people's development. In a 1989 national survey, 5% of the gay men and 10% of the lesbians reported physical abuse or assault related to being lesbian or gay in the last year; 47% reported some form of discrimination over their lifetime. Other research has shown similarly high rates of discrimination or violence.

What can be done to help lesbians and gay men overcome prejudice and discrimination against them?

The people who have the most positive attitudes toward gay men and lesbians are those who say they know one or more gay person well. For this reason, psychologists believe negative attitudes toward gays as a group are prejudices that are not grounded in actual experience with lesbians or gay men but on stereotypes and prejudice.

Furthermore, protection against violence and discrimination are very important, just as they are for other minority groups. Some states include violence against an individual on the basis of her or his sexual orientation as a "hate crime" and eight U.S. states have laws against discrimination on the basis of sexual orientation.

Can therapy change sexual orientation?

No. Even though homosexual orientation is not a mental illness and there is no scientific reason to attempt conversion of lesbians or gays to heterosexual orientation, some individuals may seek to change their own sexual orientation or that of another individual (for example, parents seeking

therapy for their child). Some therapists who undertake this kind of therapy report that they have changed their clients' sexual orientation (from homosexual to heterosexual) in treatment. Close scrutiny of their reports indicates several factors that cast doubt: many of the claims come from organizations with an ideological perspective on sexual orientation, rather than from mental health researchers; the treatments and their outcomes are poorly documented; and the length of time that clients are followed up after the treatment is too short.

In 1990 the American Psychological Association stated that scientific evidence does not show that conversion therapy works and that it can do more harm than good. Changing one's sexual orientation is not simply a matter of changing one's sexual behavior. It would require altering one's emotional, romantic and sexual feelings and restructuring one's self-concept and social identity. Although some mental health providers do attempt sexual orientation conversion, others question the ethics of trying to alter through therapy a trait that is not a disorder and that is extremely important to an individual's identity.

Not all gays and lesbians who seek therapy want to change their sexual orientation. Gays and lesbians may seek counseling for any of the same reasons as anyone else. In addition, they may seek psychological help to "come out" or to deal with prejudice, discrimination and violence.

Why is it important for society to be better educated about homosexuality?

Educating all people about sexual orientation and homosexuality is likely to diminish anti-gay prejudice. Accurate information about homosexuality is especially important to young people struggling with their own sexual identity. Fears that access to such information will affect one's sexual orientation are not valid.

Where can I find more information about homosexuality?

The publications and organizations listed below can all provide you with further information.

References:

Garnets, L.D., et al, "Issues in Psychotherapy With Lesbians and Gay Men," *American Psychologist*, Vol. 46, No. 9, pp 964-972.

Goodchilds, J.D., *Psychological Perspectives on Human Diversity in America*, American Psychological Association, Washington, DC, 1993.

Garnets, L.D., and Kimmel, D.C., *Psychological Perspectives on Lesbian & Gay Male Experiences*, Columbia University Press, NY, 1993.

Gonsiorek, J.C., and Weinrich, J.D., *Homosexuality: Research Implications For Public Policy*, Sage Publications, CA, 1991.

Herek, G.M., and Berrill, K.T., *Journal of Interpersonal Violence*, Vol. 5, No. 3.

Organizations:

National Gay and Lesbian Task Force
1734 14th Street, NW
Washington, DC 20009
(202) 332-6483

National Institute of Mental Health
5600 Fishers Lane, Room 7C02
Rockville, MD 20857
(301) 443-4513

Parents and Friends of Lesbians and Gays
1012 14th Street, NW, Suite 700
Washington, DC 20005
(202) 638-4200

Sex Information and Education Counsel of the United States
130 W. 42nd Street, Suite 2500
New York, NY 10036
(212) 819-9770

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Gregory M. Herek, Ph.D., University of California at Davis

Oliva M. Espin, Ph.D., San Diego State University; president of APA Division 44

APA Committee on Lesbian and Gay Concerns

Clinton W. Anderson, M.A., APA Office on Lesbian and Gay Concerns

For further information:
American Psychological Association
750 First Street, NE
Washington, DC 20002-4242
(202) 336-5700
(202) 336-6123 TDD

Brochure written by Stephen J. Blommer
Produced by the APA Office of Public Affairs

The Marriage Resolution

The following Resolution is a tool to help you generate community support, build a coalition, and promote discussion and public education on gay people's need for the freedom to marry.

Detach this form (or make copies!) and have any organization you belong to sign on to the Resolution, then get other groups to do the same.

Mail or fax the endorsed resolutions to Lambda.

THE MARRIAGE RESOLUTION

Because marriage is a basic human right and an individual personal choice,

RESOLVED, the State should not interfere with same-gender couples who choose to marry and share fully and equally in the rights, responsibilities, and commitment of civil marriage.

BE IT RESOLVED THAT

_____

(Organization Name)

ENDORSES THE MARRIAGE RESOLUTION.

Organization _____

Address _____

Phone _____ Fax _____

Contact Person _____

Please return the endorsed Resolution to:
Lambda Legal Defense and Education Fund
666 Broadway, Suite 1200, New York, NY 10012-2317
fax 212-995-2306

For more information about the Resolution and Lambda's Marriage Project, and for other resources regarding equal marriage rights for lesbians and gay men, please contact Lambda's National Headquarters at 212-995-8585.

The Freedom to Marry

On May 5, 1993, the Hawaii Supreme Court took a giant step toward allowing lesbians and gay men to marry. In *Baehr v. Lewin*, the Court held that the refusal to issue marriage licenses to same-sex couples is sex discrimination in violation of the state constitutional guarantee of equal protection. The Court sent the case back to the lower court to give the state a chance to defend its discrimination. The state can win only if it shows "compelling" reasons why only different-sex couples should be allowed to marry.

The couples are represented by co-counsel Honolulu attorney Dan Foley, through the Hawaii Equal Rights Marriage Project (HERMP), and Lambda's Marriage Project Director Evan Wolfson. The trial was held September 10-20, 1996, and a ruling is expected by December, with a final resolution following appeal by 1998.

In the nationwide battle for equal marriage rights, winning *Baehr v. Lewin* may be the easy part. Even now, opponents are fighting to keep the basic freedom to marry from gay Americans. Several states have already proposed measures refusing to recognize marriages performed in other states. This is only the beginning of what will probably be a formidable backlash against equal marriage rights. It is of the utmost importance that every community be prepared for these battles.

Lambda's Marriage Project is actively recruiting a broad coalition of organizations and individuals to join in this historic fight. The Marriage Project also coordinates the work of other organizations and serves as a clearinghouse for research, information, and contacts as we prepare to defend the right to marry. We all have a critical role to play in preparing the groundwork now for this landmark civil rights battle.

Join us today by getting the word out and getting involved.

Lambda Legal Defense and Education Fund, Inc.

National Headquarters
666 Broadway, Suite 1200
New York, NY 10012-2317
212-995-8585
fax 212-995-2306

Western Regional Office
6030 Wilshire Blvd, Suite 200
Los Angeles, CA 90036-3617
213-937-2728
fax 213-937-0601

Midwest Regional Office
17 East Monroe, Suite 212
Chicago, IL 60603-5605
312-759-8110
fax 312-641-1921

Talking About the Freedom to Marry

KEY POINTS

- Today same-gender couples are not allowed to legally marry in any state -- no matter how long they have been together, no matter how committed their relationship, and no matter how much their families need the protections, benefits, and responsibilities that come with civil marriage.

- Marriage is an important personal choice and a basic human right. The decision to get married should belong to the couple in love, not the state.

- This is not the first instance of government interference with people's freedom to marry. Less than thirty years ago interracial couples were prohibited from legally marrying. Today, very similar discriminatory arguments are being used to prohibit same-gender couples from marrying.

- Legally, religious and civil marriage are two separate institutions. Though many faiths do perform same-gender marriage ceremonies now, they have no legal recognition as civil marriages. The state should not dictate which marriages any religion performs or recognizes, just as religions should not dictate who gets a civil marriage license from the state.

Denny Lee/LLDEF

Two of the six plaintiffs in *Baehr v. Lewin*, Genora Dancel and Ninia Baehr.

QUESTIONS AND ANSWERS

Q Why do we need "gay marriage"?

A We don't. We need marriage. The term "gay marriage" implies that same-gender couples are asking for special rights or privileges that married couples do not have. What we need is the equal right to marry the person we love and care for, just as heterosexual Americans can.

Q Why do gay/lesbian couples need or want to get married?

A Most same-gender couples already take on many of the same responsibilities as married couples, but have none of the legal protections or benefits that accompany civil marriage. In fact, despite taking responsibility for their partner's well-being, both economically and emotionally, same-gender couples are legally treated as nothing more than roommates! For example, one partner is often denied visitation and involvement when the other is in the hospital. Same-gender couples are refused "family" health coverage, taxation, and inheritance rights; and are denied protection in case the relationship ends -- sometimes even resulting in a partner's children being taken away. In addition, same-gender couples are denied the social and emotional security marriage provides for so many people in our society.

Q Isn't marriage traditionally defined as a union between a man and a woman?

A Traditionally, yes. However, marriage has also been "traditionally" defined as a union between two people of the same religion or the same race, and one in which wives were the property of their husbands. Those "traditional" elements of marriage changed to reflect the equality of individuals. Today we recognize the choice of a marriage partner belongs to each person, not to the state.

Q Isn't marriage really about procreation?

A No. Many people marry who cannot or choose not to have children. And many gay men and lesbians do have children, but are denied the right to raise those children within a marital relationship. Marriage is best understood as a relationship of emotional and financial interdependence between two people in love who make a legal and public commitment to each other.

Q Do all lesbians and gay men want to marry?

A No. Lesbians and gay men are as diverse as non-gay people; some would choose not to marry even if they could. All couples, however, should have this choice. The government should not interfere in the decision of same-gender couples to exercise this basic human right, just like everyone else.

Q Is the gay community using this issue to support a broader agenda?

A The lesbian, gay, bisexual, and transgender communities have always been very open about our goal of ending discrimination and supporting equality for all. It's the Radical Right which is in fact using fear and misinformation regarding marriage to raise funds in support of its broader, extremist agenda, and to increase its influence on the government.

Q What about domestic partnership?

A In certain cities and companies there is limited recognition of relationships between unmarried partners, including same-gender couples. No domestic partnership plan, however, provides the same responsibilities, benefits, and protections that marriage does. Domestic partnership is no substitute for civil marriage.

Q Is this the right time to fight for same-gender marriage?

A Yes, in fact there has never been a better time. The Hawaii Supreme Court will soon rule on this issue, and legal experts agree that Hawaii will most likely be the first state to recognize civil marriage for same-gender couples, affecting gay and lesbian couples all across the country.

Q How does this affect couples outside Hawaii?

A Same-gender couples who travel to Hawaii to get married and return to their home state will expect to have their marriage recognized at home, just as others do. There are powerful legal and practical reasons why a lawful marriage in one state must be recognized by all others (this is, after all, one country, and if you're married, you're married). We can, however, expect the wealthy and well-organized Radical Right to challenge these lawful marriages state by state. We must prepare now for the challenges.

Join the Fight

HOW YOU CAN GET INVOLVED

The first thing you can do is encourage all organizations you are a member of to sign on to the Marriage Resolution. The list of endorsements is important to the battle in Hawaii and nationally, providing essential evidence of our growing coalition as we bring on more allies and continue this fight. And, asking for support is a critical step toward promoting discussion and education about our families and the freedom to marry.

Tana Ike Ingraham Naked Lifestyle

Two of the six plaintiffs in *Baehr v. Lewin*, Joe Melillo and Patrick Lagon.

The second step you can take is to become a Lambda member and join our fight for justice. As a member, you will support more than the Marriage Project. You will assist Lambda as we provide leadership and vision in our efforts to combat discrimination against lesbians, gay men and people with HIV nationwide.

MEMBERSHIP

○ $40 Basic Member	○ $250 Advocate
○ $75 Household	○ $500-$1,499 Partners Circle
○ $100 Sustainer	○ $1,500+ Liberty Circle

Name _____

Address _____

City/State/Zip _____

Telephone _____

*Contributors of $500 or more become Major Donors and receive additional benefits. For more information, call our Development Director, Bill Peters, at 212-995-8585.
○ As a major donor, I prefer not to have my name listed in Lambda publications.

Please check where appropriate:

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○ Please make a ○ one-time ○ monthly ○ quarterly charge of $_____ *($25 minimum)* to my ○ Master Card ○ Visa ○ Amex

Signature _____

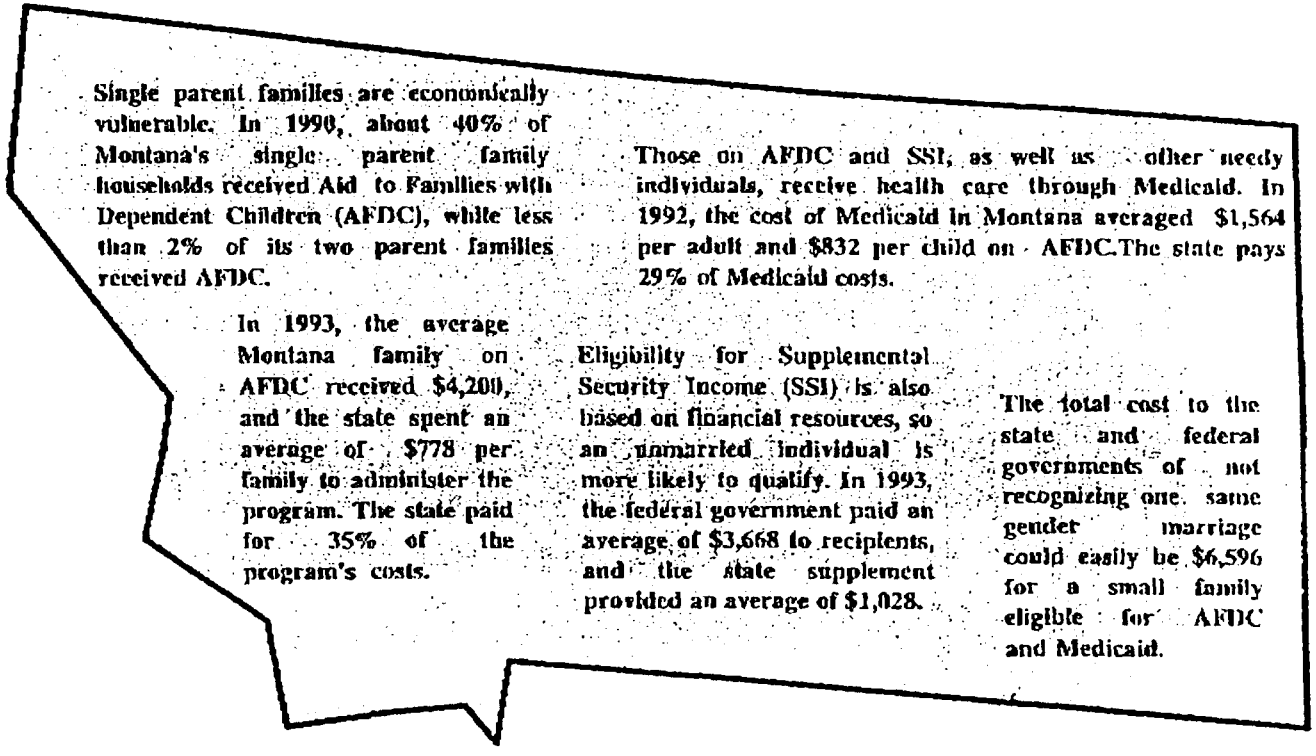
Credit Card # _____ Exp Date _____

All contributions to Lambda are tax-deductible.
Return this form to LLDEF, 666 Broadway, Suite 1200, New York, NY 10012-2317.

The Institute for Gay and Lesbian Strategic Studies

Benefits of same gender marriages for the state of Montana

These private benefits of marriage have allowed state and federal governments to construct safety net programs that catch individuals when their families cannot provide adequate housing , health care, food, or income because of some financial misfortune, death or unemployment. These programs require that employed or financially able spouses contribute to the family's maintenance. But if a marriage is not legally recognized, no spousal support can be expected, increasing the state's financial burden for that family.


Single parent families are economically vulnerable. In 1990, about 40% of Montana's single parent family households received Aid to Families with Dependent Children (AFDC), while less than 2% of its two parent families received AFDC.
In 1993, the average Montana family on AFDC received $4,200, and the state spent an average of $778 per family to administer the program. The state paid for 35% of the program's costs.
Those on AFDC and SSI, as well as other needy individuals, receive health care through Medicaid. In 1992, the cost of Medicaid in Montana averaged $1,564 per adult and $832 per child on AFDC.The state pays 29% of Medicaid costs.
Eligibility for Supplemental Security Income (SSI) is also based on financial resources, so an unmarried individual is more likely to qualify. In 1993, the federal government paid an average of $3,668 to recipients, and the state supplement provided an average of $1,028.
The total cost to the state and federal governments of not recognizing one same gender marriage could easily be $6,596 for a small family eligible for AFDC and Medicaid.

Sources: 1994 Green Book compiled by the Committee on Ways and Means, U.S. House of Representatives; the 1990 U.S. Census of Population; and Social Security Bulletin, Annual Statistical Supplement, 1994.

I-GLSS:
Post Office Box 53036
Washington, D.C. 20009-3036
Fax: 202.319.9112
Phone: 202.544.9243

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ANGLES

The Policy Journal of the Institute for Gay and Lesbian Strategic Studies

For Richer, For Poorer: The Freedom to Marry Debate

The Cost of Nonrecognition of Same Gender Marriages

by M.V. Lee Badgett, Ph.D. and Josh A. Goldfoot

ABOUT THE ISSUE

The State of Hawaii may soon make history by becoming the first state in the nation to recognize same gender marriages. And because a marriage that is legal in one state usually is legal in the 49 other states, policy makers nationwide have been forced to examine this highly controversial issue.

Here, economists Lee Badgett and Josh Goldfoot discuss the socio-economic impact of same gender marriage recognition in the State of California which is currently considering two bills which seek to preempt recognition of such marriages. Be aware, though, that while the facts are California-specific, many of the issues raised here are relevant to other similar discussions currently taking place.

Marriage is a personal and emotional commitment two people make to each other. And marrying someone often is a public announcement of that commitment.

With its mix of benefits and obligations, marriage encourages individuals to form economically stable family units that will provide life's necessities for its members. Our nation's health care, pension systems, and social safety net have all been constructed around it.

Encouraging economically stable families has obvious social benefits. Children have increased access to parental resources, both economic and social. Adults will likely improve their own standard of living, share in the responsibility of child-rearing, and have built-in financial support during tough times.

Evidence further suggests that married adults are healthier and live longer than single ones.[1] As well, business and industry get a more stable customer base and a stronger current and future labor force. Though difficult to quantify, these are just some of the social benefits of marriage.

The institution of marriage promotes economic stability not just for heterosexual couples, but would also do so for same gender couples who will marry if allowed. Moreover, the costs of recognizing same gender marriages are likely to be negligible.

The failure to legally recognize those marriages undermines the larger social purpose of marriage and will be financially costly to any government. Through tax revenues and expenditures, marriage has a significant impact on governmental budgets -- particularly in terms of tax revenue and payments for means-tested assistance programs.

In this analysis, keep in mind that the state budget represents transfers of income throughout the state, and measuring the overall social impact -- on children, adults, and the health of our economy -- is not as simple as measuring changes in taxes and expenditures.

How many same-sex couples will marry?

Very little useful information exists for predicting how many same gender couples would marry if given the opportunity. We expect that couples will weigh the pros and cons.

The advantages of marrying include social approval, increased relationship security, and access to spousal benefits. Another advantage is that it creates a legal family relationship for inheritance, hospital visitation, and other purposes.

Disadvantages of marriage might include higher federal income tax payments or loss of eligibility for some social programs. However, available evidence suggests that such disadvan-

tages at most have a small effect on the propensity to marry.[2]

Although all of these factors are relevant in some way for most couples, individuals will place different values on them. In the end, some lesbian or gay couples will decide to marry and others will not. Not knowing how many couples will marry, however, does not prevent us from estimating the economic impact of those marriages and the cost of nonrecognition.

Most of the significant benefits of marriage do not involve direct financial costs for the State or local businesses. For example, with no cost to anyone else marriage can save couples thousands of dollars in attorneys' fees for writing wills, living together contracts, and other legal documents to protect their relationship, property, and children. Other benefits, like the right to hospital visitation or to make medical decisions for an incapacitated spouse, involve no financial gain to the couple or loss to anyone else, but have obvious value to a patient and his or her spouse.

For the other potential costs of recognition versus nonrecognition, we start with the potential cost per couple. We then put the potential cost into the larger social context to provide a sense of its size and importance.

Marriage and the Social Safety Net. A number of economic supports are created by marriage, among them:

- Many employers offer health and pension benefits to their employees and their spouses and children.
- Married couples must provide mutual financial support.
- Marriage automatically creates property, spousal inheritance, and social security survivor benefit rights in the event of divorce or death, all of which enhance the economic security of the family.

These private benefits of marriage have allowed state and federal governments to construct safety net programs that catch individuals when their families cannot provide adequate housing, health care, food, or income because of some financial misfortune, death or unemployment. These programs require that employed or financially able spouses contribute to the family's maintenance. *But if a marriage is not legally recognized, no spousal support can be expected, increasing the state's financial burden for that family.*

The economic vulnerability of single parent families cannot be overstated. In 1990, 65% of California's single parent family households received Aid to Families with Dependent Children (AFDC), while only 3% of its two parent families received AFDC.[3]

The potential state budgetary impact of not recognizing a marriage that would lift a family out of eligibility for these programs is large. In 1993, the average California family on AFDC received $6,816, and the state spent an average of $581 per family to administer the program.[4] The State pays for half of this program's costs.

Another program, Supplemental Security Income (SSI), supports the aged or disabled. Eligibility is based on financial resources, so an unmarried individual is more likely to qualify. In 1994, the maximum California supplement was $1884 per year for an individual and $5280 for a couple.[5] California added an average of $2,159 to the federal government's average $3,970 payment in 1993.[6]

MediCal is available to those on AFDC and SSI as well as other needy individuals. The federal and state governments split the cost of MediCal, which in 1992 averaged $1,480 per adult on AFDC and $652 per child on AFDC in California.[7] Finally, state and local governments might incur additional costs from other means-tested programs not discussed here, such as General Assistance, that use resources to determine eligibility.

Of course, not all same gender marriages would lift one spouse out of eligibility for these programs, but marriage is the most common route off welfare.[8] Certainly in a state as large as California, the economic position of some families headed by gay people will be dramatically helped by marriage. And many gay people do have children, making this scenario plausible. (A 1993 survey by Yankelovich Partners showed that lesbians are as likely as heterosexual women to be parents and to have children in their households. Gay men are less likely to have children, but many do.[9])

The total cost to the state and federal governments of not recognizing one such marriage could easily be $9,000 for a small family eligible for AFDC and MediCal. Using that average cost per family, every 100 families leaving AFDC reduces expenditures by nearly

ANGLES
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Editor
Gregory Adams

Contributing Researchers
M.V. Lee Badgett, Ph.D.
Josh Goldfoot

Design
Gregory Adams (202) 797-9298

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I-GLSS
611 Pennsylvania Ave., SE, Suite 352
Washington, DC 20003
202.544.9243 (v); 202.319.9112 (f)

$1 million per year -- half of those savings going to the state. If only 0.1% of families on AFDC in 1994 married and left AFDC, the total savings would be over $3.3 million to the state in this hypothetical scenario.[10]

Marriage and the Federal Budget. Since the federal government shoulders at least half of these safety net program costs, it will also pay more if California refuses to recognize particular marriages. On the other hand, it is not likely to incur any higher costs if California recognizes all marriages.

Impact on Federal Income Tax. The state's failure to recognize these marriages also could deprive the federal government of additional tax revenue. The impact of marriage on a couple's tax obligations depends on whether both spouses work and how similar their earnings are. By paying more taxes as a married couple than they would as single individuals, couples with similar earnings suffer a "marriage penalty" that averaged $1244 in 1994.[11] The traditional married couple, with the wife working in the home and the husband in the workforce, receive a marriage benefit (averaging $1399 in 1994) since they pay less in taxes than they would pay separately if single.

In some ways, marriage provides incentives for couples to form more traditional kinds of households that will get the marriage benefit.[12] But studies show that even if they legally marry, same gender couples are not likely to adopt that traditional form, often expressing a strong belief that both members of the couple should work outside the home.[13] Therefore, same gender couples would be more likely to pay the marriage penalty.

The total increase in tax revenues will depend on whether the marriage penalty discourages some couples from marrying. Results of recent studies imply that 10-15% of two earner couples might decide not to marry because of the marriage penalty. That means that 85-90% of such couples would still marry, contributing an additional $1,244 in federal taxes. California's failure to recognize the marriages of 10,000 two-earner gay couples, for instance, could cost the federal government over $12 million.[14]

Marital Exemptions on Other Taxes. One benefit of marriage for wealthy couples is the exemption on federal estate taxes. All transfers of property to a surviving spouse are exempt from taxation, regardless of the size of the estate. Otherwise, only up to $600,000 of estate property can be transferred to heirs without estate taxes. It is difficult to estimate the amount of estate tax revenue that would be lost by legally recognizing same gender marriages. However, wealthy people tend to engage in estate tax planning to minimize taxation, so the difference would likely be small.

Marriage also creates an advantage when adding a spouse's name to a car title, for instance. Such changes in title are often subject to a conveyance tax unless the new owner is a spouse. This exemption recognizes that property owned by married people is typically treated by the law as jointly owned, even if held in only one spouse's name.[15] Like other taxes, this tax transfers income from one person to others through the state tax system and does not create any true cost or benefit.

Spousal and Survivor Benefits. Married couples are eligible for spousal social security benefits in the Old-Age and Survivors Insurance Program (OASI).[16] When a fully insured worker retires, his or her spouse is eligible for a benefit of 50% of the retiree's benefit. When the retiree dies, his or her spouse continues to receive the retiree's monthly benefit as well as a $255 lump-sum death benefit.

We do not know how many same gender couples would be eligible for spousal benefits, but evidence suggests the amount of additional benefit payments is likely to be small. Spousal benefits are only paid when the spouse is not entitled to better benefits based on his or her own work record. As noted earlier, though, both partners in same gender unions are likely to work, making them eligible for separate benefits.

Currently, a surviving partner in a same gender couple is not eligible for survivor benefits. What would be the impact of recognizing those marriages? If the survivor's own OASI benefit is more than that of the deceased spouse, there would be no increase.

Imagine the most potentially costly scenario: an insured worker receiving OASI dies, leaving behind a spouse who was uninsured and has no earned income. If the couple was married, the survivor would receive a benefit that averaged $608 per month in 1992. If the couple was unmarried, the partner would not receive OASI, but might be eligible for SSI, which could conceivably pay more than OASI since the maximum individual benefit in a high-cost California county was $663 per month in 1995.

The Impact on Private Sector Businesses in California.
What hidden costs to recognizing same gender marriages might there be? Some call for nonrecognition out of concern that it will impact business employment costs.

Health Care Costs. Many people worry that businesses providing health benefits to employees and their spouses would have to pay for more spouses. This concern is unfounded.

First, costs to an individual business are likely to rise by very little, if at all. A growing number of employers currently offer health benefits to their employees' same gender "domestic partners." Those businesses have experienced

very low cost increases because few employees (typically well under 1%) enroll domestic partners; and those partners are not incurring higher than average medical costs.[17] So recognizing same gender marriages will not dramatically increase the number of people insured by a single business.

Second, even a low cost increase for a single employer may not be true for the state economy as a whole. Some newly married people might switch from their own employer's insurance benefits to his or her spouse's insurance plan, but that just shifts the costs from one employer to the other. Others might shift from MediCal to a spouse's employment plan, which simply shifts the costs from the state to the employer and could benefit the employer in the long run through lower taxes.

Even those who are currently uninsured but would become eligible for benefits if married would not necessarily increase total state health care costs. Those individuals currently constitute a vulnerable group of people who, in a medical crisis, might become eligible for MediCal or simply be unable to pay for care. Recognizing marriages of the currently uninsured might mean some small increase in employers' costs but would likely reduce the amount of uncompensated care that is a growing burden on health care providers, private insurers, and the state. The net effect of the uninsured gaining health insurance through marriage will depend on the balance between reduced uncompensated care expenses and the potential for increased usage of health care services while insured.

Overall, recognizing same gender marriages will most likely result in a redistribution of health care costs, with some possibility of a small increase in total costs to the state or private businesses.

Insurance and Business Discounts. Insurers often provide lower auto insurance for married people based on actuarial data showing that married individuals are lower risks. Extending the same discount to married same gender couples should not, therefore, increase costs to the insurance companies if a similar reduction in risk occurs.

Discounts on other products or services offered to married couples may not result in lower business revenues. When the price of a product falls, more people purchase it, so such discounts will not necessarily reduce revenue. Presumably those businesses offer discounts in the first place because those discounts increase revenues and profits.

Private pension plans. Most employers offering pension benefits must offer "joint and survivor" benefits as an option upon retirement -- the retiree receives a lower payment while alive and his or her spouse gets a smaller payment after the retiree's death.[11] Allowing employees with a same gender spouse should not increase employers' costs because the values of the two different income streams – the higher one for the life of the retiree or the lower one with survivor benefits – are set to be actuarially equivalent.

Overall, then, the cost of recognizing more marriages should be small to nonexistent for private sector businesses.

NOTES

1. C. Ross, J. Mirowsky, and K. Goldsteen, "Impact of the Family on Health: Decade in Review," Journal of Marriage and theFamily, Vol. 52, Nov 1990.

2. D. Sjoquist and M. Walker, "The Marriage Tax and the Rate and Timing of Marriage," and J. Alm and L. Whittington, "Does the Income Tax Affect Marital Decisions?", National Tax Journal, Vol. XLVIII, No. 4, Dec. 1995. R. Moffitt, "Incentive Effects of theU S Welfare System: A Review," Journal of Economic Lit., Vol. 30, No. 1, Mar. '92, pp. 1-61.

3. Calculated with Cal. data from the 1990 Census of Population and data on AFDC recipiency from the State of Cal., Dept. of Social Services. The standards for AFDC Unemployed Parent are more stringent, which exaggerates the difference in rates somewhat.

4. 1994 Green Book compiled by the Comm. on Ways and Means, US House of Representatives.

5. 1994 Green Book, pp. 224-225.

6. Social Security Bulletin, Annual Statistical Suppl., 1994, p. 69.

7. 1994 Green Book, p. 811.

8. R. Moffitt's study, (note 2).

9. G. Lukenbill, Untold Millions, Harper Business, New York, 1995.

10. In 1994, 742,656 single parent families received AFDC, according to the State of California's Dept. of Social Services.

11. D. Feenberg and H. Rosen, "Recent Developments in the Marriage Tax," National Tax Journal, Vol. 48, No. 1, March 1995.

12. G. Becker, Treatise on the Family, Harvard Univ. Press, Boston, 1991.

13. P. Blumstein and P. Schwartz, American Couples, Wm Morrow and Co., N.Y., 1983; L. Kurdek, "Lesbian and Gay Couples," Lesbian, Gay, and Bisexual Identities Over the Lifespan, ed. by A. D'Augelli and C. Patterson, Oxford Univ. Press, New York, 1995.

14. This figure results from using the -0.012 elasticity of the marriage probability with respect to change in taxes reported in Alm & Wittington (see note 2) and the $1,244 avg. marriage penalty for 2-earner couples from Feenberg & Rosen (see note 11).

15. M. Glendon, Transformation of Family Law, Univ. of Chicago Press, 1989, pp. 123-131.

16 1994 Green Book.

17 In the City of N.Y. and State of N.Y., fewer than 1% of employees enrolled a domestic partner of either the same or opposite sex (data for city and state from Office of Labor Relations, NYC, 1995, and Empire State Pride Agenda, respectively); see also "The Report of the CUNY Study Group on Domestic Partnerships," City Univ of N.Y., Oct. 1993.

18 R. Clark and A. McDermed, The Choice of Pension Plans in a Changing Regulatory Environment, The AEI Press, Washington, D.C., 1990, p.73; A. Munnell, The Economics of Private Pensions, The Brookings Institution, Washington, D.C., 1982, p. 225.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 39
DATE 3-17-97
BILL NO. HB 323

March 17, 1997
Capital Rotunda
Senate Judiciary Committee, Room 325
Testimony given by Julie Chriske
Against HB 323 - Prohibting Same-Sex Marriage

Dear Members:

There are two separate issues at hand...

1. Whether is is "right" or "moral" for same sex couples to be married, and

2. Whether there is a need to pass a law which prohibits an action which is already a prohibited action.

The redundancy of this law is amazing! The time spent in this redundancy is appalling!

Good sense government would vote against this bill if for no other reason than to discourage the waste of time and money such bills require.

The silliness of this bill is akin to discussing a law making it illegal for 6 year olds to own and run candy stores; IT IS NOT HAPPENING NOW! However if 6 year olds could run candy stores they would likely know what is best to stock the stores with. It is probably true that if Gay people were allowed to marry they would be less likely, than their heterosexual counterparts, to take for granted an institution which has been denied them for so long.

As a sociologist, I find it interesting that the thought of gay rights or gay marriage makes others so afraid and concerned for their own lives. Homosexuality has existed since air...in all cultures...among all animal groups. We are frequently cited for the break down of the American Family and seen as the antithesis to Christianity in this country. It is an old argument which is rarely used in other places around the world where much harsher political struggles are at work. Europeans see us as primitive in our strong opposition to gay rights...South Africans now provide legal protection for gays under the leadership of Nelson Mandela; a man who knows what it is to be oppressed and denied basic human rights. I am convinced that if the same rules were applied to heterosexuals as are applied to homosexuals for even a period of 6 months; heterosexuals who are against gay marriage or equal protection under the law would become tolerant. If gays were in charge and could take away from heterosexuals the rights denied us for so long, those who had been our oppressors would quickly seek a new tolerance within themselves. The tellling point is that gays would be very unlikely to deny heterosexuals such rights...we would be preventing our children and grandchildren, our mothers and fathers, our sisters and brothers, and our friends from marriage and freedom. Because we have been an oppressed group for so long, we would not allow others to be oppressed. **THIS LAW IS BASED IN ABSOLUTE FEAR AND POWER; NOTHING ELSE.**

Recently HB 270 was killed in this committee. The bill would have added the words "Sexual Orientation" as a protected class under Montana's anti discrimination laws. Opposers such as Arlette Randash and The Christian Coalition stated that it was not a needed change because we were already protected. In addition, they stated that there was nothing apparent which made gays different and thereby needing protection. They stated there was nothing but behavior of a sexual nature which makes us different. What about Jews? The Irish? You cannot tell by visually examing someone whether one is Irish, or Jewish, or a variety of other classifications. We are no different and deserve equal protection under the law.
Arlette Randash spoke of being afraid after a small local gay rights group member asked other members to call the Independent Record to seek the removal of Arlett's articles. She stated she was afraid for her safety...imagine how we feel every day thoughout our lifetimes. But Arlette did not learn from her experience; nor did she become more tolerant or sympathetic for the fear we feel each day. She still canvasses against Gay Persons. Such hypocricy is short sided and based in simple homophobia, not healthy political thought and strategy.

HB 323 is not needed. We are not able to be protected against hate crimes or discriminatory behavior at our jobs, or in our neighborhoods. We cannot be married. Why pass a bill which states that something not happening cannot happen. The bill is not based in logic, but rather began in a place of fear and hate. It would have been human to allow myself and the woman I was with for 15 years marry, but we made the best of a bad situation as best we could. The state lost thousands of dollars over the years which would have been theirs from a taxation standpoint had the realtionship been awknowledged legally. Our joint income; well above the national average, lost the state and federal governments approximately $125,000 in tax revenue over the last 15 years. We are one household. Don't get me wrong...we have had to devise other financial arrangements to make amends for the inabilty to share survivors benefits, receive each others health benefits, and raise our children together. States untimately lose money and respect when such laws are passed. As a 4th generation Montanan I get tired of us being seen as the Buffalo slaughtering, Freeman storing, Unabomber producing state...Laws such as HB 270, and HB323 give creedance to the world view as Montana as a beautiful but White Supremacist hangout.

I would wish for all humans to feel compassion...I would wish for all of Montana's people to feel the freedom to live where they would like to live, the right to choose which work they will do, and the purpose to love who they love and to join with that person in a legally binding aggreement. However I am not naive...that will not happen here for a very long time. Some of you on this committee are humanists with vision much like those first whites who fought for black rights or the first boldly outspoken women who fought for women's rights. You are able to challenge your fears, listen to your heart , and do what you know is right and correct. I do not agree with the Christian fearmongers who will use poor translations of Jesus's words to incite fear, ethnocentricty, bigotry, and homophobia.; but I will defend their right to exist. I only wish the same for myself. I pray for those who diagree with me and our cause, that they

come to awknowledge that diversity and differences are what we are told to tolerate...by our nations founding fathers and Jesus himself.

To vote for HB 323 while killing HB 270 is senseless and contradictory to good government. It makes something already illegal an obvious fear and hate based law. One we will conmtinue to fight and rid the promoters of their power seats through voting and protest. Gay men and women of Montana are a viable economic power...as we b3ecome more angry we become less fearful. We continue to be your children, your parents, your friends, and your brothers and sisters. We will not go away...we could not do so if we wanted to.

A few years ago a young man who I had known committeed suicide. He feared he was Gay and his parents, he felt, would not love him or accept him. Sadly he was right. His parents said, "We would rather our son be with the lord than to live with Satan in that horrible lifestyle; as a homosexual".

In Amsterdam, Holland; where Gays are afforded equal rights and same sex marriage is legal, at Anne Franks house hangs a sigh which has on it a quote from her diary written while hiding from the Nazi's. It reads:

"In spite of everything, I still believe that people are good at heart"

It is amazing that a young girl who had witnessed and experienced the worst humanity has to offer could feel such compassion and love. I only wish that we all could feel such compassion for one another, but we cannot. Yet there are no bombs goping off around us and we are free to walk in our communities. We may be hurt or killed or maimed, but the risk is not as it was for the Frank family. Not yet anyway. Such laws encourage a state such as the one which existed under Hitler to flourish and grow.

George Santayana stated in his book series, "The Life Of Reason" written in 1905:

"Fanaticism consists in redoubling your efforts when you have forgotten your aim"

This Law is Aimless...it seeks to hurt not heal...and is based in nothingness. It is the school yard bully saying..."I know you didn't do anything, but I GOTCHA anyway".

If I were in your shoes I would be angry for ever having to spend time on such an illogical bill. It is fanaticism at it's worst, and is moot under Montana's current laws. It is simply a handful of scrambling individuals pursuit of hate and homophobia. Once again, why make something illegal which is already illegal.

I can be reached at: 443-2683. Thank you for your time.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 40
DATE 3-17-97
BILL NO. HB323

March 17, 1997

To: The Senate Judiciary Committee

Re: Opposition to HB 323

Dear Mr. Chairman and Members of the Committee:

I strongly oppose HB323 because the bill is not needed. This bill is just another attempt to discriminate, harass and treat as second class citizens the gays, lesbians and bi-sexual members of our community.

Thank You,

Shirley Wideman

Shirley Wideman
112 14th Avenue South
Great Falls, Montana 59405

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 41
DATE 3-17-97
BILL NO. HB 323

D. Starshine
PO Box 6414
Great Falls 59406

Members of the Senate Judiciary Committee

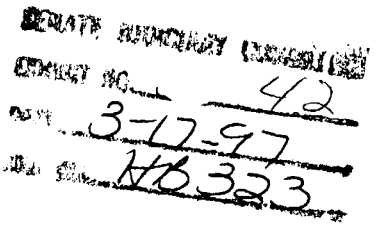
I am here from Great Falls in opposition to HB 323.

Marriage is already defined in Montana as a union between a man and a woman which makes this bill totally unnecessary and a waste of taxpayers money.

Please use your expertise to solve more important problems such as education and welfare.

Peace,

Starshine



March 17, 1997
Judiciary Committee Hearing
HB 323 - Boharski - Banning Same Sex Marriages

Mr. Chairman, Members of the Committee:

I am Kathlene Fleckenstein from Corvallis, MT. I am here speaking on behalf of the Unitarian Universalist Association of Congregations, because the Christian Coalition simply does not represent all religious people. As you may know, Unitarians and Universalists have been at the forefront of social change for centuries. We number among our historic members free thinkers such as William Ellery Channing, Ralph Waldo Emerson, Susan B. Anthony and Thomas Jefferson. Perhaps lesser known is Michael Servetus who was burned at the stake in 1553 for the crime of being a heretic.

Although we do not have a creed or belief system common to all of our members, we do have a set of guiding Principles that help us form a moral code, much like the Ten Commandments. One of the Principles is the belief in the inherent worth and dignity of every human being. This Principle is at the core of our beliefs, the Principle that has driven generations of Unitarians and Universalists to social action. It is the Principle that has demanded of me that I stand here and speak to you today. Every human being has worth and dignity. Regardless of their beliefs. Regardless of whom they love.

In writing the Declaration of Independence, Unitarian Thomas Jefferson said, "... We hold these truths to be self evident: that all men are created equal; that they are endowed by their creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness...." It is the stand of Unitarian Universalists that banning any person's right to marry based on sexual orientation is unconstitutional and flies in the face of the values upon which this country was founded: namely Freedom and Liberty.

I am a heterosexual. What a strange statement! Unfortunately, there are those who think that my sexual orientation somehow makes me more legitimate, more believable than a homosexual person. As a Unitarian Universalist, I look forward to the day when this is no longer the case. When the question (or statement) of sexual orientation is simply irrelevant.

Unitarian Universalists do not simply tolerate homosexuals in our congregations. We accept who they are for all of their attributes, not for one aspect of their lives. We welcome them to us. We ordain homosexuals into our clergy. We perform, recognize and celebrate their unions. They are us.

Today we have heard much about traditional values. However, it was once a traditional value to publicly torture and burn heretics. It was once a traditional value to deny women the right to vote. It was once a traditional value to buy and sell human beings on the sole basis of their skin color. And now, for the sake of traditional values, we are debating whether to allow homosexuals to legally marry. Unitarian Universalists fail to understand how society is wronged when two adults fall in love. There is no compelling legal reason for government to strip rights away from a small segment of our population. We agree with the Dalai Lama when he said, "There are no acts of love between adults that one can or should condemn."

When so-called "traditional values" conflict with basic human decency; when they conflict with constitutional rights; the only Moral thing to do is the decent thing. Please vote "no" on HB323.

Thank you for your kind attention.

EX
3-17-97
SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 43
DATE 3-17-97
SUB NO. HB 323

TESTIMONY AGAINST HB 323
MONTANA HUMAN RIGHTS NETWORK
Submitted by Christine Kaufmann

MHRN is private non-profit advocacy organization which helps communities respond to bigotry, intolerance and discrimination in their communities. We work with 12 local groups and over 1300 members across Montana.

We stand opposed to HB 323 which prohibits marriages between persons of the same sex. The bill is unnecessary. Current law does not allow such marriages by definition. 40-1-103 MCA defines marriage-- "Marriage is a personal relationship between a man and a woman arising out of a civil contract ..." Why spend the time and resources passing a bill to prohibit something that is not even a possibility. What is it's purpose?

The gay and lesbian community has not come before you asking for a change in that definition that would allow their marriage. To tell you the truth, the Human Rights Network thinks there are a lot more important issues facing the gay and lesbian community, such as protection from discrimination (Ream's bill) or protection from violence.

So we didn't bring you this issue that you'd all rather not be talking about. But now that its out in the open, it probably won't go away until justice prevails.

This bill is brought to you by those who last session wanted to require lifetime registration of gay men and lesbians. Now, in this bill they want to prevent lifetime registration.

This bill is brought to you by those who decry what they see as promiscuous, unstable, unhealthy short-lived relationships between persons of the same sex. Now in this bill, they want to make sure lesbians and gay men never are allowed to participate in the institution designed to foster stable, healthy, monogamous, and long-term relationships.

This bill is brought to you by those who quite simply, find the idea of marriage between two men or two women offensive. They just don't like it. And that is not a good reason to make it law. Just a few decades ago, people found the idea of marriage between persons of different races morally offensive as well. Some people still do. It was only 30 years ago that the US Supreme court declared laws banning interracial marriage to be unconstitutional. Most of us, however, think the choice of a marriage partner belongs to consenting adults, not the government.

This bill is brought to you by those who oppose equal access to marriage on the basis of their personal religious beliefs. In an effort to impose their religious beliefs on the rest of us they are now seeking a law to prohibit marriage between persons of the same sex in the state of Montana. They argue that allowing equal access to marriage forces people to recognize marriages which are directly counter to their religious doctrine. But in their attempt to use the law to protect their sensibilities, they would restrict religious freedom for others in society.

Marriage is one of few instances in which the state delegates authority to the church. The state

recognizes a contractual civil union on the basis of a marriage performed by members of the clergy in accordance with church doctrine. This has traditionally been a permissive rather than prescriptive granting of state authority.

The state has not said that marriage ceremonies must be at least twenty minutes long, or the bride must receive a ring or that certain things must be said and agreed to in the course of the ceremony. Along the same lines, government has also refrained from proscribing a set of qualifications which the clergy member performing the ceremony must meet, they don't need a college degree, they don't need to be able to read and write or to recite scripture, they just need to be recognized by their church. Further, the state has studiously avoided stringent requirements on just what it takes to be a church or religion capable of performing a marriage. There is no proscribed doctrine or dogma which a group of people must show in order to be a church.

The only time the state prohibits specific religious practices is where there is a compelling state interest, such as public safety. Animal sacrifice has been found to be protected as a matter of religious freedom despite the fact that it clearly offends the sensibilities of the community as a whole.

The reason for this hands-off approach is a good one . . . . and a simple one. It is a matter of religious freedom. In order to protect people's religious freedom the state does not pass judgement on the internal workings of a church.

And here is the rub in the current debate about gay marriage. The proponents of a ban on gay marriage are passing judgement on the doctrine of some churches. Based on their judgement, they identify one church activity (marriage of same sex couples) as not legitimate, and in the tradition of religious bigotry, seek to codify their judgement of the religious practices of churches with which they disagree.

The simple fact is that there are churches which recognize gay marriage as a matter of doctrine. There are churches which seek to minister to this segment of the population. The proponents of the ban want to use state power to pick and choose which matters of doctrine are "acceptable" to the state and which are not. Absent a demonstrated threat to public health or safety they should not be allowed to do it.

As you have heard in previous testimony, denying marriage to some couples, is discriminatory. It presents some hardships for real people in your districts. There is room for compromise here. In addition to prohibiting marriage, you might consider offering a domestic partnership status for persons of the same sex. Many gay and lesbian activists don't like this idea, because it sets up a second class status. But I'd have some amendment language I'd be willing to share with anyone on the committee.

In closing, I urge you to vote against HB 323, but if you can't do that, to amend it to provide limited civil recognition.

C. Kaufman
SENATE JUDICIARY COMMITTEE
EXHIBIT NO. EX 44
DATE 3-11-97
BILL NO. HB 323

Amendments to House Bill No. 323
Third Reading Copy

Requested by Sen.
For the Committee on the Judiciary

Prepared by John MacMaster
March 12, 1997

1. Title, line 4.
Following: "MARRIAGE"
Insert: "AND PROVIDING FOR DOMESTIC PARTNERSHIPS"

2. Page 1, line 20.
Insert: "NEW SECTION. **Section 2. Domestic partnerships.** (1) The secretary of state shall adopt rules providing a definition of domestic partnership and a process for establishing and terminating a domestic partnership by persons prohibited from marriage under 40-1-401(1)(d).

(2) A domestic partnership is the full legal equivalent of a contract under 40-1-103.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 45
DATE 3-17-97
BILL NO. HB 323

To the Senate Judiciary Committee

Dear Chair and Committee Members:

I, Aart Dolman, Ph.D., have lived in the State of Montana since 1968 and I am a retired Professor of History teaching at MSU-Northern and other Universities for more than 36 years. Currently, I am a freelance writer/photographer covering various historical subjects.

I submit the following testimony in opposition to HB 323 which prohibits same sex marriages in the State of Montana.

Marriage as an institution in the development of the History of Western Civilization and in American History has a history of change in its legal, moral, and economic concepts. In addition, marriage in Montana is based upon Anglo-Saxon traditions from the Roman era to the present.

From its inception the Institution of Marriage has been changing in the historical process. Marriage in the time of the Romans was in reality a union of families rather than of bodies and souls. By the time of the Middle Ages, the Christian Church lifted marriage from the level of a passing contract to the sanctity of an inviolable vow and it became a Holy Sacrament. When the Roman Catholic Church codified canon law in this era, marriage became associate with its legal codes. The Protestant movement in the 16th Century held up its institutional connection with secular law to distinguish itself from the Roman Catholic Church. Marriage was placed under secular control.

In Colonial New England all marriages were performed by Justices of the Peace until 1692 when the clergy were made Officials of State for that purpose. Marriage at that time as with Medieval Kings were property settlements between two families and those who did not have property were often Common Law marriages. Although many churches, or parishes kept records on births, deaths, and marriages, it was after the Federal Constitution came into existence that a systematic recording of marriages were kept by local and state governments.

In the constitutional emphasis on religious toleration, the people of the United States have long recognized that marriage is a matter of civil record. The first type of marriage is one where a license is obtained and may be officiated by a person from the clergy or public official. Two individuals can declare themselves to be married before the clerk of court without the presence of an official. The second type of marriage is one based upon common law. The license for both of these marriages is necessary for civil registration, common property contracts, and the inheritance which deals with disposal of property in case of death.

In addition, individuals who believe that their marriage is sanctioned by their religion can chose a marriage according to teachings of their church. Religious marriages are in addition to the civil ones. Even though many religious denominations do not recognize common law marriages, they are legal in the State of Montana. Because of their religious views, some religious political organizations such as the Christian Coalition, the Eagle Forum, and other religious denominations do not recognize same sex marriages and have proposed a law to prohibit them.

The problem with HB 323 is that it forces a religious interpretation of marriage upon the licensing process of civil marriages. Same sex marriages must a matter of civil record and must be recognized to be legal in the State of Montana.

Sincerely,

Aart Dolman
3016 Central Ave
Great Falls, Mt. 59401

ACLU OF MONTANA
AMERICAN CIVIL LIBERTIES UNION
P.O. BOX 3012 • BILLINGS, MONTANA 59103 • (406) 248-1086 • FAX (406) 248-7763

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 46
DATE 3-17-97
HB 323

March 17, 1997

Mister Chairman, Members of the Committee:

For the record, my name is Scott Crichton, executive Director of the American Civil Liberties Union of Montana, here today in opposition to HB 323.

The ACLU supports legal recognition of lesbian and gay relationships, including the right to marry. Such recognition is imperative for the complete legal equity of lesbian and gay individuals.

Civil marriage is the way our society defines one's most intimate, committed relationships. It is also the device our society uses to identify your partners for everything from retirement programs to critical medical decisions to the simple right to be together in crisis situations, like emergency rooms. Denying lesbians and gay men the right to marry denies them simple, basic dignity and has serious practical consequences as well. This is discrimination and it is wrong.

Regarding religion, let me say that the fact that a state allows same sex couples to marry would not require any religious institution to recognize or perform such marriages. State marriage laws are entirely separate from religious practices in our country. We seek not to impose any requirement on religious groups, but rather seek equal access to the complex structure of rights and responsibilities that civil marriage has become.

Regarding procreation, I want to tell you that marriage is not based on procreation. Many couples decide not to have children, people who cannot have children are permitted to marry, and many same sex couples do have children.

Regarding tradition, marriage has traditionally been defined as a union between people of different sexes. It has also been traditionally understood to involve a man owning a woman as property. Divorce was largely forbidden and marriage was completely forbidden. These traditions have been abandoned because they were unfair. Why is it that opponents of same sex marriage only want to uphold one aspect of traditional marriage?

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 47
DATE 3-17-97
BILL NO. HB323

MEMO

TO: ~~House~~ Senate Judiciary Committee

ON: House Bill 323

DATE: ~~February 12~~ March 17, 1997

To ~~House~~ Senate Judiciary Committee Members:

What difference does it make to the legislature or what differences does it make to the government who marries who or what gender they are?

I am very proud of my son and his spouse. They work harder at their marriage than any one I've ever seen. They may be homosexual, but that does not diminish the relationship one bit.

There is not a doubt in my mind that 50 years from now they will still be together, and deserve the right to have it be recognized by the government.

Peace,

Margie A Kaldor

Margie Kaldor

Shirley Wideman

Copy.

MONTANA SENATE
1997 LEGISLATURE
JUDICIARY COMMITTEE

ROLL CALL DATE 3-17-97

NAME	PRESENT	ABSENT	EXCUSED
SUE BARTLETT	✓		
AL BISHOP	✓		
STEVE DOHERTY	✓		
SHARON ESTRADA	✓		
MIKE HALLIGAN	✓		
RIC HOLDEN	✓		
REINY JABS	✓		
WALT MC NUTT	✓		
LORENTS GROSFIELD, VICE CHAIRMAN	✓		
BRUCE CRIPPEN, CHAIRMAN	✓		

SEN:1995
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CS-09

DATE 3-17-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 323, 299, 303

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
FERN HART	SELF	HB 323		✓
Margaret Hale	[redacted] Self	HB 323	✓	
Joe Brand	Veterans of Foreign Wars	303		✓
LOREN STIFFARM	MT INDIAN ED ASSN	299 303		✓
Janet Walker	Hays/Lodge Pole School	299		✓
Simon Walker	Hays/Lodge Pole School	299		✓
Richard Fox	Hays/LodgePole	299		✓
Robert Fox	Hays/Lodgepole School	299		✓
John Sirois	Hays Lodge Pole Sch	299		✓
Scott Zander	Hays/Lodgepole School	299		✓
Arlene Morin	Hays/Lodgepole School	299		✓
Roxanne Bourneau	A Rock Tribes	HB 299/303		
Julie Chriske	SELF-	HB 323		✓
Don Judge	MT STATE AFL-CIO	HB 299 HB 303		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-17-97

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 323, 299, 303

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Sandy Hale	Self - 415½ N. Beattie Helena	299 303		X
Jane Kaldor	Self - Gt Falls	299 303		X
Bruce Connaghan	Self GTFLS	299 303		X
Lisa Morris	Self		X	
Geri Brandt	Self	HB 323	✓	
Carole Allison	Self	HB 303	X	
Karen Webb	self	HB 303 HB 323	X	
Lih-An Jang	self	299 303		X
Kathlene Fleckenstein	Unitarian Universalist Assoc. of Congregations	HB323		X
Suzanne Wasilczuk	Unitarian Universalist Fellowship of Missoula	HB323		X
Laurie Kastnik	Christian Coalition	299 HB303/323	X	
Robert Mauss	Self	299 303	X	
Robert J Lopp	Self	299 303		X
Jane Lopp	self			X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE 3-17-97

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 323, 299, 303

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Evelyn Stevenson	Salish/Kootenai			
Mary Noel	Lewis & Clark AHS Project	299 303 323		X
Charles J. Lorentzen	self	323	X	
CHET KINSEY	MSCA MEMBER	303 323		X
CLAUDIA MONTAGNE	self	299 303		X
Tara Mele	MonPIRG	299 303		X
David Orendorff	self	299 303		X
Wynard McDonald	Salish & Kootenai	299 303		X
Brad Martin	MT Democratic Party	299 303		X
Charles J. Lorentzen	self	299 303	X	
Louie E. Stasso	Self - Kootenai Tribe	299 303		X
Carol Lankford	Salish Kootenai	299 303		X
Jan Willems	Hamilton Rt. Turk Inc.	299/303		X
Diana Cote	CS&K Tribes	299/303		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-17-97

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: ~~HB~~ 323, 299, 303

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Robert "Bob" E. Harris	NAACP	299 303		✓
AART Dolman	self	299 303 323		✓
BETTY WADDELL	MT ASSOC. OF CHURCHES	HB 299 HB 303		✓
SHARON HOFF	MT CATHOLIC CONF	HB 299 HB 303		✓
SHARON HOFF	MT CATHOLIC CONF	HB 323	✓	
Sandy Hale	PRIDE!	HB 323		✓
Jane Kaldor	Self	HB 323		✓
Bruce McKeppen	self	HB 323		✓
DAVID TSCHIDA	SELF	HB 323	✓	
Starshine	PFLAG	HB 323	[redacted]	✓
Barbara Cullitan	pFLAG	HB323	[redacted]	✓
Louise Moore	ICCW	299 303		✓
Angela McDaniel	ICCW	299 303		✓
Shirley Wideman	PFLAG	[redacted] 303		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE 3-17-97

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 299, 303, 323

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Darrell Martinez	Hays Lodgepole	299		✓
Rep Pavlovich	HD-34	303 299		✓
Rep. Pease	H.D. 06	303 299		✓
Bob Ebert	Hays/Lodge Pole	299		—
Sanna Yost	SELF	HB 323		✓
Claudia Montagne	Self	HB 323		✓
David Tschida	Self	HB 299 HB 303	✓	
Ellen Swaney	OCHC	HB 299 HB 303		✓
Kate Chyle	MT Women's Lobby	299 303		✓
"	"	323		✓
Russell B Hill	MT Trial Lawyers	HB 299/303		—
Sally L. Macmillan	Great Falls Task Force for Human Rights & Self	HB 299/303		✓
Dana Sands	Rep. HD 66	299/303		X
Sally L. Macmillan	GFTF Human Rights	HB 323		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-17-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 303, 299, 323

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Jan Wilms	Gulf Intrastate Pipeline Co, Trunk Line, self	323		✓
Les Childers	Self	323		✓
Angela McDaniel	Self	323		✓
Lih-An Yang	Self	323		✓
Paul Shively	Self	323		✓
Crisanne Hazen	Self			✓
Scott Cheeves	NCLL	323 299		✓
		301		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **SEN. RIC HOLDEN, ACTING CHAIRMAN**, on March 18, 1997, at 9:00 a.m., in Senate Judiciary - Room 325.

ROLL CALL

Members Present:
Sen. Bruce D. Crippen, Chairman (R)
Sen. Lorents Grosfield, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Sharon Estrada (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter L. McNutt (R)

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Judy Keintz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:	HB 540	3/4/97
	HB 495	3/4/97
	HB 426	3/4/97
	HB 276	3/4/97
Executive Action:	HB 495, HB 540, HB 276	
	HB 299, HB 303, HB 323	

HEARING ON HB 540

Sponsor: REP. SCOTT ORR, HD 82, Libby

Proponents:
Earl Peace, Bozeman
Beth Baker, Department of Justice
Jim Oberhofer, Montana Board of Crime Control
Mary Fay, Bureau Chief for Probation and Parole Office for the State of Montana
REP. NORM MILLS, HD 19, Billings
John Connor, Department of Justice

at least $100,000 of federal money from Pell Grants, etc. He doesn't like the idea of preferential treatment for anyone.

SEN. HOLDEN, referring to page 3, lines 12 and 13, which talked about fee waivers, commented it was his understanding that the fee waivers would be available for persons in need but not particularly based on skin color.

SEN. CRIPPEN did not know if that was the original intent. From the testimony he heard, when the portion on lines 10 and 11 were struck out, they created some concern that the result would be that some of the students in the tribes would not be able to obtain fee waivers.

SEN. GROSFIELD didn't feel that it talked about need at all. It states that the regents may waive tuition and fees for persons who have been residents for one year and it is totally at the discretion of the regents. He agrees with the motion to table the bill. We need a constitutional change before this bill is appropriately before us.

SEN. HALLIGAN stated that affirmative action has been a huge red flag for white males in the last few years. He was excluded from law school for three years in a row because of the affirmative action at the University of Montana. They needed to get the classes up to where they ought to be for minorities and women. This levels the playing field.

SEN. HOLDEN stated that we cannot continue discrimination based on skin color, sex, age, etc. He is a minority. He represents 2% of the American population involved in farming.

Vote: The **MOTION CARRIED** with **SEN. ESTRADA, SEN. BISHOP** and **SEN. HOLDEN** voting no.

EXECUTIVE ACTION ON HB 323

{Tape: 3; Side: a; Approx. Time Count: 11:50; Comments: .}

Amendments: hbo32301.ajm - **EXHIBIT 11**

Motion: **SEN. ESTRADA MOVED HB 323 BE CONCURRED IN.**

Substitute Motion: **SEN. HALLIGAN MOVED TO AMEND HB 323.**

Discussion:

SEN. HALLIGAN stated there ought to be something in the code dealing with domestic partnerships and a process for establishing and terminating the same. Contracts are usually filed with the Secretary of State. He felt that would be a neutral place to adopt rules dealing with the domestic partnership under the contract issue. When people live together, they need something which allows for the separation of their property.

SEN. GROSFIELD opposed the amendment. He believes there are common law marriages, 40-1-403 states that common law marriages are not invalidated by this chapter. Section 40-1-404 talks about putative spouse which is a spouse not recognized under our marriage statutes. In that statute it specially states that rights acquired by the putative spouse - the courts shall apportion property, maintenance and support rights among the claimants as appropriate, etc.

Vote: The **MOTION FAILED** on oral vote.

Motion: **SEN. DOHERTY MOVED TO AMEND HB 323 - EXHIBIT 12.**

Discussion:

SEN. DOHERTY stated there was testimony from the Unitarians, Congregation Folks and the Quakers that they as a religious practice recognize these unions. This amendment states that the state has a license. Religious organizations have their own ceremonies and ideas. Nothing in the act dictates any religious practices whatsoever.

SEN. ESTRADA stated that this amendment stated that two people of the same sex would be able to get married in the state of Montana if they became a Quaker.

SEN. DOHERTY stated the state of Montana would not be able to give them a marriage license. The amendment states that if a religious practice recognizes that union, the state would not mess with the religious practice.

SEN. BARTLETT stated there are two distinct dimensions to most marriages. One is a civil dimension. The state has an interest in marriage in relation to property rights and responsibility for children, etc. For most of us, there is a religious dimension to marriage as well. The amendment states that the state has no business interfering with those religious beliefs and that nothing in the statute being considered should be interpreted to be an establishment of religious principle by the state.

SEN. MCNUTT felt that was already given in the Constitution and that it need not be put in every law.

SEN. DOHERTY answered that the bill states that the state shall not recognize a marriage. One can say that the Constitutional provisions are inherently in every law we pass. The bill as it currently stands would give the state the authority to tell a church that what they are doing is not valid.

SEN. CRIPPEN did not agree. He felt this simply made the statement that the state will not recognize that marriage as a legal marriage under the state law.

SEN. GROSFIELD commented that Section 1 (a) spoke to bigamy, 1(b) and (c) spoke about incest. The amendment could go to those issues as well.

SEN. DOHERTY wanted his amendment to apply to the new added language only. He felt the bill adopted one facet of religion as opposed to others. Without this language, it makes the act suspect. This bill crosses the line. It says to some people of some religious beliefs that what you do is acceptable and okay. It says to other people with other religious beliefs, that it is not.

Vote: The **MOTION FAILED** on oral vote.

SEN. HALLIGAN stated the law is that a marriage is a personal relationship between a man and a woman arising out of a civil contract. That is the law in marriages in Montana. Same sex marriages are prohibited now. This bill is not necessary. The law is clear and should not be disregarded.

SEN. CRIPPEN stated that when the state of Hawaii did what it did, it might require Montana to recognize those marriages which would be appropriate in that jurisdiction.

Vote: The **MOTION THAT HB 323 BE CONCURRED IN CARRIED** with **SEN. HALLIGAN, SEN. BARTLETT** and **SEN. DOHERTY** voting no.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 12
DATE 3/18/97
BILL NO. HB323

Add a new subsection —

Nothing in this Act shall be construed to in any way interfere with, limit or dictate any religious practices.

SENATE STANDING COMMITTEE REPORT

March 18, 1997

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill 323 (third reading copy -- blue), respectfully report that House Bill 323 be concurred in.

Signed: _____
Senator Bruce Crippen, Chair

Amd. Coord.
Sec. of Senate

Senator Carrying Bill

591317SC.SRF

HOUSE BILL NO. 323

INTRODUCED BY BOHARSKI, PROUSE, CLARK, REHBEIN, ADAMS, MCGEE, SIMPKINS, WELLS, BERGMAN, JORE, WALTERS, GRIMES, KNOX, JENKINS, TOEWS, AHNER, DEVANEY, HAYNE, KASTEN, ARNOTT, OHS, HARGROVE, HOLLAND, BOOKOUT, SIMON, ZOOK, CURTISS, ORR, MOOD, BITNEY, BEAUDRY, ESTRADA, BAER, KEATING, GAGE, M. HANSON

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING MARRIAGE BETWEEN PERSONS OF THE SAME SEX; PROVIDING THAT CERTAIN CONTRACTS ARE AGAINST PUBLIC POLICY; AND AMENDING SECTION 40-1-401, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-1-401, MCA, is amended to read:

"**40-1-401. Prohibited marriages -- CONTRACTS.** (1) The following marriages are prohibited:

(a) a marriage entered into prior to the dissolution of an earlier marriage of one of the parties;

(b) a marriage between an ancestor and a descendant or between a brother and a sister, whether the relationship is by the half or the whole blood, or between first cousins;

(c) a marriage between an uncle and a niece or between an aunt and a nephew, whether the relationship is by the half or the whole blood;

(d) a marriage between persons of the same sex.

(2) Parties to a marriage prohibited under this section who cohabit after removal of the impediment are lawfully married as of the date of the removal of the impediment.

(3) Children born of a prohibited marriage are legitimate.

(4) A CONTRACTUAL RELATIONSHIP ENTERED INTO FOR THE PURPOSE OF ACHIEVING A CIVIL RELATIONSHIP THAT IS PROHIBITED UNDER SUBSECTION (1) IS VOID AS AGAINST PUBLIC POLICY."

-END-